

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

Crl. Bail Application No. 551 of 2022

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGES</b>
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For hearing of bail application.

9<sup>th</sup> May, 2022

Mr. Liaquat Hussain, Advocate for applicant.

Mr. Muhammad Ahmed, DAG a/w PI Arfa Saeed of FIA, I.O. of the case.

Complainant present in person.

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**Omar Sial, J.:** Fazal Dad has sought post arrest bail in crime number 1 of 2022 registered under sections 16, 20, 21 and 24 of the Prevention of Electronic Crimes Act, 2016 along with sections 383 and 109 P.P.C. at the F.I.A.'s Cyber Crime police station in Karachi. Earlier, his applications seeking bail were dismissed on 14.02.2022 and 14.03.2022 by the learned 1<sup>st</sup> Civil Judge and Judicial Magistrate, Malir, Karachi and learned Sessions Judge, Malir, Karachi respectively.

2. Masoorah Amir, who is a student at the Karachi University, complained to the F.I.A. that an unidentified person was making unsolicited contact with her on her phone and threatening her that she should meet him and also give him Rs. 15,000 otherwise, an inappropriate video of hers which the caller possessed would be made public. The caller also had photos of her identity card. Upon the complaint made by Masoorah, the F.I.A. conducted an enquiry and traced the numbers from which the calls, threats and demand for money was made, back to two individuals. One was Fazal Dad, the applicant, and the other was Adnan Ali. The F.I.A sleuths seized the phones of the two individuals. Upon a forensic examination of the seized phones, prima facie, in addition to Masoorah's'; images of identity cards of several girls together with incriminating material in the shape of text messages, photos and videos were also discovered. Further investigation revealed that the applicant Fazal Dad was a rickshaw driver who primarily plied his rickshaw for hire within the Karachi University premises. He was a member of a religious society and had secretly recorded an inappropriate video of Masoorah and then started to contact her. When Masoorah blocked his number he asked his friend Adnan Ali to contact Masoorah. Allegedly, a demand of Rs. 15,000 was made for the callers to delete the video.

3. Learned counsel for the applicant argued that Fazal Dad deserved the concession of bail as Adnan Ali had been granted bail; that the phone in question was not in possession of the applicant during the period the communication is said to have been made; that there was a delay of one month in the lodging of the F.I.R.; that the offence complained of does not fall within the prohibitory clause of section 497 Cr.P.C. and thus grant of bail is a rule and, finally, that the investigation was complete. The learned Deputy Attorney General passionately opposed the grant of bail and submitted that Adnan Ali had been granted bail in an arbitrary manner and that there is a strong likelihood that an application seeking cancellation of Adnan Ali's bail is in the offing.

4. I have heard the learned counsel for the applicant as well as the learned Deputy Attorney General. The investigating officer and the complainant of the case were also present to assist the State. My observations and findings are as follows.

1. F.I.A. investigations have revealed that the accused were in possession of details and identity cards of a number of girls. Most have not come forward to complain, however, the F.I.A. is trying its best to trace down those girls whose unauthorized data was found on the phones of the two accused. Contrary to what the learned counsel argued, it appears that this is an ongoing investigation as far as the F.I.A. is concerned and that there is a strong possibility that other girls might come forward with complaints in the near future. Prima facie the forensics conducted on the seized phones corroborates the allegations made by Masoorah. The phones from where the harassment and blackmail was initiated were in the possession of the accused and at the moment learned counsel has been unable to show otherwise.
2. The record reflects that Adnan Ali was granted bail on 04.02.2022 by the learned 1<sup>st</sup> Civil Judge and Judicial Magistrate, Malir. The learned magistrate has noted in the order impugned, that Adnan's role was different to that of the applicant as the incriminating material was found from the phone of Fazal Dad. While it seems that the State proposes to file an application seeking cancellation of bail granted to Adnan Ali, at this stage it appears that the person who recorded the video and initiated the

contact and blackmail was the applicant Fazal Dad. I have intentionally not commented on the role of Adnan Ali as till now there is no application seeking cancellation of his bail before me. Be that as it may, suffice to say that the Fazal Dad does not deserve the concession of bail on grounds of consistency.

3. As regards the argument of the learned counsel that the offence does not fall within the prohibitory clause of the section 497 Cr.P.C., I am cognizant of the principles enunciated by the Honorable Supreme Court in the case of **Tariq Bashir and 5 others vs The State (PLD 1995 SC 34)**. The Honorable Supreme Court in this case had held that bail in cases falling within the non-prohibitory clause of section 497 should be granted unless there were exceptional or extraordinary grounds to refuse it. In my view the prima facie blackmail and extortion of a woman in the present case with a view to outrage her modesty is one such exception where a departure from the principles of the aforementioned case can be made. It is worrying to know that unauthorized data of several other girls has also been found on the seized phones. The growing trend of people being blackmailed and harassed on the basis of unauthorized audio and video recordings must come to an end.
4. In view of the above observations it appears upon a tentative assessment that Fazal Dad does have a case to answer. The application seeking bail was therefore dismissed by a short order dated 27.04.2022 and above are the reasons for so concluding.

JUDGE