

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Cr.B.A.No. 2752 of 2023

Muhammad Mugheez.....Applicant
Vs.
The State.....Respondent

Cr.B.A.No.52 of 2024

Haseeb Jarwar.....Applicant
Vs.
The State.....Respondent

Cr.B.A.No.63 of 2024

Hafiz Khawaja Ammar AhmedApplicant
Vs.
The State.....Respondent

Cr.B.A.No.631 of 2024

Wahid Gul.....Applicant
Vs.
The State.....Respondent

For hearing of bail application.

05.06.2024

Mr. Sajjad Ahmed Chandio Advocate for Applicant in Cr.B.A.No.52
of 2024,

Mr. Altaf Hussain, Advocate for Applicant in Cr.B.A.No.63 of 2024.

Mr. Rao Abdul Raheem, Advocate for Complainant.

Mr. Ghulam Sarwar Baloch, Assistant Attorney General a/w Sub-Inspector Muhammad Shoaib. Syed Adnan Shah, and A.D. Legal Aijaz Kalwar of FIA Cyber Crime Karachi.

ORDER

Muhammad Iqbal Kalhoro, J:- On the basis of a complaint made by Muhammad Ali Siddiqui regarding dissemination/displaying blasphemous contents/i.e. images, sketches, graphics, pictures and videos on social media violating honour and respect of Almighty, the Holy Prophet Muhammad (P.B.U.H) Holy Book of Quran, Umhatul Momenen, Ahle-Bait, an enquiry was conducted by FIA Cyber Crime Karachi, in which an unknown number of accounts on whatsapp running in hundreds were identified being used by thousands of peoples for spreading such content on social media. So far 47 peoples have been identified and arraigned in 11 different FIRs registered by FIA Karachi. The ground inducing their arrest, identified in investigation by Deputy Director FIA, was that they were the users of relevant mobile phones from which either these images, sacrilegious in nature, were edited and made viral on social media or forwarded after receipt of the same from other phones. From the applicants, the mobile phones were recovered which were subjected to Forensic examination and the report is stated to be in positive.

2. The forensic report shows that the data which was found in such phones was blasphemous. However, the question whether the data extracted from the phones was edited by the applicants or simply forwarded after receipt or the fact whether such data is fake or genuine has not been dilated upon in the report; and therefore the same is yet to be determined in trial. The applicants were arrested in May 2023 and since then they are in jail. The entire evidence, as agreed by all the present, is based on documents, such as the forensic lab report, the phones etc. Therefore, there is no chance that such evidence is likely to be tampered with by the applicants at any stage of the trial. Furthermore, the witnesses

cited in the case are officials of FIA except the complainant, who admittedly are not prone to be won over by the applicants.

3. On the basis of these facts and grounds, applicants' counsel have pleaded for bail which has been opposed by the learned counsel for the complainant, learned Assistant Attorney General and A.D. Legal, Sub-Inspectors of FIA Cyber Crime, Karachi.

4. Be that as it may, as the discussion in preceding para shows the entire case of prosecution is based on documentary evidence. The probative value of which needs to be determined in the trial. Applicants are in jail for more than one year, and meanwhile in this case investigation is completed and the challan has been submitted. Their incarceration is neither beneficiary to prosecution in any manner, therefore, nor is warranted on the ground of them being required for further investigation, not the least when in other cases of like nature still the Managers running the whatsapp groups involved in this scam are yet to be identified and taken to the task. The case is already posted for evidence and it is reported that the forensic expert who examined the alleged phones retrieved from the applicants has not been made witness in this case due to bar under section 510 Cr.P.C. But the question whether in the peculiar circumstances of the case where the only incriminating piece of evidence has genesis in his report, his examination as a witness is relevant or not needs to be replied. More so, applicability of Section 510 Cr.P.C. in this case, when the relevant forensic Lab pertains to FIA itself and one of its official has issued the lab report would be a circumstance before the trial Court to determine first before determining culpability of the applicants in this case.

5. Therefore, in view of all these facts and circumstances I am of the view that the case for bail is made out. Hence these applications are allowed and applicants are granted bail subject to furnishing a solvent surety in the sum of Rs.200,000/-each and P.R. bond in the same amount to the satisfaction of the trial Court.

6. At this stage, learned A.D.Legal FIA Cyber Crime Karachi and counsel for the complainant have submitted that names of the applicants be put up on ECL and if they possess passport they shall be directed to submit the same before the trial Court. Further they should be restrained from using social media account qua the proceedings of trial or discussing the same in any manner on any online platform. Order accordingly. Further, it is ordered that if the applicants are found to be misusing their phone accounts on social media etc. and discussing the merits of the case, FIA would be at liberty to move an application before the trial Court for cancellation of their bail.

7. These bail applications are disposed of in the above terms.

8. Needless to mention here that the findings made hereinabove are tentative in nature and would not prejudice case of either party at trial.

JUDGE

Imran