ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Crl. Misc. No. 52-B/2022

Shah Zaman Khan
Vs.
The State & Other.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	28.01.2022	Mr. Sami Ullah Wazir, Advocate for petitioner. Syed Nazar Hussain Shah, AAG alongwith Shehroz, S.I., FIA.

Through instant petition, petitioner (Shah Zaman Khan) is seeking post-arrest bail in FIR No. 01, dated 01.01.2022 under Section 13 & 14 of PECA 2016 read with section 419,420,468,471 & 109 PPC registered at FIA Cyber Crime Cell, Islamabad.

2. The contents of the FIR reveals that the accused with connivance of Tahir Ullah Shah had created fake websites having URL:www.dahadignostics.co and www.dahadignostic.co by projecting uploading misleading information with dishonest intention to defraud general public on the said alleged website regarding conducting/processing of covid-19 PCR test and generated/issued fake Covid-19 PCR reports to different people by impersonating themselves as complainants company i.e. Daha Lab and Diagnostic, Islamabad which has damaged the repute of the complainant as well as his company and also caused financial loss to the Complainants Company as well as National Exchequer.

3. The learned counsel for the petitioner stated that the petitioner's email ID has wrongly been used for the creation of the websites URL:www.dahadignostics.co and www.dahadignostic.co

by some unknown persons and the same fact was brought into the knowledge of the investigating agency but they have ignored all this, the learned counsel further contended that the petitioner has been remanded to judicial custody and is no more required for investigation as the investigation of the case has been completed. The offences alleged against the petitioner are bailable in nature and does not fall within the ambit of prohibitory clause.

4. On the other hand the learned Assistant Attorney General stated that the accused is nominated in the FIR, the mobile recovered from the accused disclosed all the story to the investigating agency, the accused during investigation admitted his guilt for preparation of the fake website, the offences alleged against the accused carry punishment of ten years and falls within the prohibitory clause of Section 497 Cr.P.C, therefore, the petitioner is not entitled for the concession of bail.

5. Arguments advanced by learned counsel for the parties have been heard and material available on record has been perused.

6. Perusal of the record reveals that in the present case the petitioner is accused of offence under Sections 13 & 14 of the PECA, 2016 read with Section 419,420,468,471 & 109 PPC.

7. The offences under Sections 420 & 471 PPC are bailable while rest of the offences do not fall within the ambit of prohibitory clause of Section 497 Cr.P.C.

8. The investigation to the extent of the petitioner stands concluded and he is no more required for further investigation. The

petitioner is behind the bar since the registration of the FIR, in such a situation further incarceration of the petitioner would serve no useful purpose and the bail cannot be withheld as a punishment. Reliance is placed upon case law reported as *Muhammad Nawaz v. The State & another* (**2021 YLR 328, Islamabad)**.

9. The Hon'ble Supreme Court of Pakistan in the recent order in the case of *Iftikhar Ahmed v. The state* PLD 2021 SC 799 has set aside the order of the learned High Court whereby post arrest bail of the accused was rejected in offences under Sections 420,468 & 471 PPC and allowed the bail. The principle laid down in the case of *Muhammad Tanveer v. The State* PLD 2017 SC 733 was reiterated wherein it was laid down that the grant of bail in offences not falling within the prohibitory limb of section 497 Cr.P.C shall be a rule and refusal shall be an exception.

10. In view of above tentative assessment, petitioner has made out a case for grant of post arrest bail at this stage. Therefore, the instant petition is allowed and the petitioner is enlarged on bail after arrest in the above mentioned case, subject to furnishing bail bonds in the sum of Rs. 100,000/- (Rupees one hundred thousand only) with one surety in the like amount to the satisfaction of the learned Trial Court.

11. The observations made herein above are tentative in nature and shall not prejudice the case of either party.

(ARBAB MUHAMMAD TAHIR)
JUDGE

Kamran