

# Judgment Sheet

IN THE PESHAWAR HIGH COURT, PESHAWAR,  
JUDICIAL DEPARTMENT.

## JUDGMENT

Cr. Misc B.A No. 1472-P/2018

Date of hearing 28.09.2018

**Tahir Ahmad Naseem versus State.**

Petitioner by Barrister Awais Babar, advocate.

Complainant by Mr. Shakeel Ahmad Khel, advocate.

State by Mr. Rab Nawaz Khan, AAG.

**WAQAR AHMAD SETH CJ;** - The accused/petitioner Tahir Ahmad Naseem son of Muhammad Maqbool Shah r/o Achini Bala, Peshawar charged in case FIR No. 341 dated 25.04.2018 under sections 153-A, 295 A, B, C, 298 PPC, P.S. Sarband, Peshawar seeks his release on bail after the refusal from the Court of learned Additional Sessions Judge-XI, Peshawar vide order dated 22.06.2018.

2. Brief but laconic facts of the case as per the contents of FIR are that complainant/respondent No. 1 Malik Awais charge the accused/petitioner directly in a case which is very heinous, serious and sensitive in its nature i.e. defiling the religion, the Holy Quran and using derogatory remarks etc in respect of the Holy Prophet Muhammad ﷺ. Background of the case in a glance of FIR is that complainant/respondent No. 1 who himself is a student of **Jamia Madrasa Muhammadia at Islamabad**, has developed friendly relations with the accused/petitioner on 15.02.2018 on Electronic Media i.e.



Facebook (Having I.D [tanaseem63@yahoo.com](mailto:tanaseem63@yahoo.com) and [www.facebook.com/tanaseem](http://www.facebook.com/tanaseem)) and started chit chat with him. In furtherance accused/petitioner call the

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complainant for face to face meeting. Both met at Happer Mall and during meeting accused/petitioner disclosed that after *14<sup>th</sup> Mujadid Mirza Ghulam Ahmad Qadiyni*, he is "15<sup>th</sup> Mujadid" and he is "Maseel of Masih" and he has been discussed in Holy Quran. Conflict arose between them over the Islamic Ideology and faith that he/petitioner claimed himself to be a last "Maseel". Complainant reported that matter to the local Police of Police Station Sirband District, Peshawar, and case vide above referred FIR was registered against the accused/petitioner. Hence the instant bail petition.


3. Arguments of learned counsel for the parties as well as learned AAG heard and record gone through very anxiously and minutely and considered their submissions as well.

4. It is pertinent to note that bail petition in hand is not an ordinary in its nature, rather, it is more sensitive and heinous one.

5. Perusal of record reveals that accused/petitioner is charged in ibid sections of law. Before embarking upon the matter, this Court deemed it necessary to reflect the above sections of law for ready reference;-

**SECTION 153-A. PROMOTING ENMITY BETWEEN DIFFERENT GROUPS, ETC WHOEVER:**

- a. by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes or incites, or attempts to promote or incite on grounds of religion, race, place of birth, residence, language, caste or community or any other grounds whatsoever disharmony or feeling of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities; or
- b. commits, or incites any other person to commit, any act which is per-judicial to the maintenance of harmony between different religious, racial, language or regional groups or casts or communities or any groups of person identifiable as such on any ground whatsoever and which disturbs or is likely to disturb public tranquility; or
- c. organizes, or incites any other person to organize, any exercise, movement, drill or other similar activity intending that the participants in any such activity shall use or be trained to use

 Aamir Bashir Awan, Senior Court Secretary. (SB). Mr. Justice Waqar Ahmad Seth, Hon'ble the Chief Justice.

criminal force or violence or knowing it to be likely that the participants in any such activity will use or be trained to use criminal force or violence, or participates, or incites any other person to participate, in any such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in any such activity will use or be trained to use criminal force or violence, against any religious, racial, language or regional group or caste or community or any group of person identifiable as such on any ground whatsoever and any such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community shall be punished with imprisonment for a term which may extent to five years and with fine.

SECTION 295-A. DELIBERATE AND MALICIOUS ACTS INTENDED TO OUTRAGE RELIGIOUS FEELINGS OF ANY CLASS BY INSULTING ITS RELIGION OR RELIGIOUS BELIEFS.

Whoever, with deliberate and malicious intention of outraging the religious feelings, of any class of the citizens of Pakistan, by words, either spoken or written or by visible representations insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extent to [ten] years, or with fine or with both.

295-B. DEFILING ETC. OF COPY OF HOLY QUR'AN. - - - -

Whoever willfully defiles, damages or desecrates a copy of the Holy Qur'an or of an extract therefrom or uses it in any derogatory manner or for any unlawful purpose shall be punishable with imprisonment for life.

295-C. USE OF DEROGATORY REMARK ETC, IN RESPECT OF THE HOLY PROPHET;- - - -

Whoever by words, either spoken or written, or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine.

298. UTTERING WORDS, ETC, WITH DELIBERATE INTENT TO WOUND RELIGIOUS FEELINGS. - - - -

Whoever, with deliberate intention of wounding or outraging the religious feelings of any person or inciting religious, sectarian or ethnic hatred, utters any words by using loudspeaker or sound amplifier or any other device or makes any sound in the hearing of that person or makes any gesture in the sight of that person or persons, shall be punished with imprisonment of either description of a term which may extend to three years, but shall not be less than one year, or with 0.5, Million fine, or with both.

6. It is evident from the record that accused/petitioner in his statement recorded under section 161 Cr.P.C not only repeated his disputed views

moderately, albeit, in support of his version he also produced documentary evidence/hand written literature consisting over **56 pages**. During the investigation local Police also took into possession the audio recording & oral statements of the accused/petitioner in the shape of USB, personal computer, which has already been viral on internet vide above mentioned accounts. The recovered articles were dispatched to the Forensic Science Laboratory, where it were analyzed/examined and subjected to Forensic Tools and Spectrographic test. The report of Examiner, Digital Forensic/Audio Video Section, Peshawar is in affirmative.

7. If we look into the matter in the luminosity of Holy Qur'an it reveals in Verse No. 40 Surah الاحزاب Parah No. 22 that:-

مَا كَانَ مُحَمَّدٌ ابًا أَحَدٍ مِّن رِّجَالِكُمْ  
وَلَكِن رَّسُولَ اللَّهِ وَخَاتَمَ النَّبِيِّينَ  
وَكَانَ اللَّهُ بِكُلِّ شَيْءٍ عَلِيمًا ۝

ترجمہ - (لوگو) تمہارے مردوں میں کسی کے باپ محمد (صلی اللہ علیہ وسلم) نہیں لیکن آپ اللہ تعالیٰ کے رسول ہیں اور تمام نبیوں کے ختم کرنے والے اور اللہ تعالیٰ ہر چیز کا بخوبی جاننے والا ہے۔

8. In the light of above mentioned verse from Holy Quran if we look into the matter in reference to

صحیح بخاری (کتاب المناقب) Chapter 3532, Hadith No.

"میرے پانچ نام ہیں۔ میں محمد، احمد اور ماحی ہوں۔ (یعنی مٹائے والا ہوں) کہ اللہ تعالیٰ میرے ذریعہ کفر کو مٹائے گا اور میں حشر ہوں کہ تمام انسانوں کا (قیامت کے دن) میرے بعد حشر ہوگا اور میں "عاقب" ہوں یعنی خاتم النبیین ہوں، میرے بعد کوئی نیا پیغمبر دنیا میں نہیں آئے۔"

صحیح بخاری (کتاب المناقب) Chapter 3535, Hadith No.

"میری اور مجھ سے پہلے کے تمام انبیا کی مثال ایسی ہے جیسے ایک شخص

نے ایک گھر بنایا اور اس میں ہر طرح کی زینت پیدا کی لیکن ایک کونے میں ایک اینٹ کی جگہ چھوٹ گئی۔ اب تمام لوگ آتے ہیں اور مکان کو چاروں طرف سے گھوم کر دیکھتے ہیں اور تعجب میں پڑ جاتے ہیں لیکن یہ بھی کہتے جاتے ہیں کہ یہاں پر ایک اینٹ کیوں نہ رکھی گئی؟ تو میں ہی وہ اینٹ ہوں اور میں خاتم النبیین ہوں۔"

I found this case unique & serious in its nature as the petitioner has challenged the chastity and self-respect of Holy Prophet Muhammad ﷺ; therefore, in the light of above mentioned "Quran Verse" coupled with reference from "Hadiths" it is crystal clear that after the Holy Prophet Muhammad ﷺ there will be no one on the earth who "can" or "will" call himself "نبی" or "پیغمبر"; therefore, the assertions made by the accused/petitioner is totally unbelievable/incredible and should be dealt with iron hands, rather he deserve more than that because he is found guilty of apostasy.

9. Thus, in view of the above discussion there is no room left for considering the request/application of accused/petitioner for the grant of bail. The sections of law are well imposed which contains major penalties, therefore accused/petitioner deserves no leniency, hence in this scenario bail petition in hand is hereby dismissed.

  
CHIEF JUSTICE

ANNOUNCED.  
28.09.2018