UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
LUMPKIN, GEORGIA

IN THE MATTER OF:	)	**In Removal Proceedings**
K[redacted], A[redacted]	)	**File No. A [redacted]**
Respondent	)	

APPLICATION: Bond Redetermination

APPEARANCES

ON BEHALF OF THE RESPONDENT:

[redacted]
Southern Poverty Law Center
PO Box 158
Lumpkin, GA 31815

ON BEHALF OF THE GOVERNMENT:

Assistant Chief Counsel
Department of Homeland Security
146 CCA Road
Lumpkin, Georgia 31815

WRITTEN DECISION AND ORDER OF THE IMMIGRATION JUDGE

I. PROCEDURAL HISTORY

Respondent is a male citizen and native of Pakistan. Respondent entered the United States at or near Calexico, CA, on or about February 10, 2017. Respondent was not then admitted or paroled into the United States after inspection by an Immigration Officer. Respondent was placed into removal proceedings by the Department of Homeland Security ("DHS" or "Department") through the issuance of a Notice to Appear ("NTA") dated March 8, 2017.

The Department charged Respondent with removability pursuant to section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (Act), as amended, as Respondent, at the time of application for admission, was not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.

On June 26, 2017, Respondent, through counsel,[1] filed a Motion for Bond. A bond hearing was held on July 14, 2017. The date of the bond hearing coincided with Respondent's individual

[1] Respondent was represented by counsel throughout custody proceedings.

merits hearing. The Court denied Respondent's request for a bond. Respondent has appealed the Court's decision to the Board of Immigration Appeals ("Board" or "BIA").

II. Discussion

A. Mandatory Detention

Section 236(c)(1) of the Immigration and Nationality Act ("Act" or "INA") provides that the Attorney General shall take into custody any alien who:

> (A) is inadmissible by reason of having committed any offense covered in INA § 212(a)(2);
> (B) is removable by reason of having committed any offense covered in INA §§ 237(a)(2)(A)(ii), (A)(iii), (B), (C), or (D);
> (C) is removable under INA § 237(a)(2)(A)(i) on the basis of an offense for which the alien has been sentence[d] to a term of imprisonment of at least one year; or
> (D) is inadmissible under INA § 212(a)(3)(B) or removable under INA § 237(a)(4)(B).

1. Respondent is not subject to mandatory detention.

The Department is not charging Respondent with removability on any of the bases that require mandatory detention under section 236(c)(1)of the Act; thus, the Court does not find that Respondent is subject to mandatory detention.

However, Respondent is subject to the provisions of section 236(a) of the Act, which provide that the Attorney General may, in his discretion, release a detained alien pending a final decision on removability. *See Matter of Joseph*, 22 I&N Dec. 799 (BIA 1999). To qualify for release, the alien must establish that he or she is not a threat to the community or a flight risk. *See Matter of Drysdale*, 20 I&N Dec. 815–17 (BIA 1994); *see also Matter of Patel* 15 I&N Dec. 666 (BIA 1976). In making a determination regarding these issues, the court should consider the following nonexclusive factors: local family ties; length of residence in the community; prior arrests; convictions; record of appearances at hearings; employment history; membership in community organizations; manner of entry and length of time in the United States; immoral acts or participation in subversive activities; property or business ties; fixed address; availability and likelihood of relief; and, financial ability to post bond. *See Matter of Andrade*, 19 I&N Dec. 488, 489 (BIA 1987); *see also Matter of Khalifah*, 21 I&N Dec. 107 (BIA 1995); *see also Matter of Ellis*, 20 I&N Dec. 641 (BIA 1993); *see also Matter of P-C-M-*, 20 I&N Dec. 432, 434–35 (BIA 1991); *see also Matter of Shaw*, 17 I&N Dec. 177 (BIA 1979); *see also Matter of San Martin*, 15 I&N Dec. 167 (BIA 1974). In addition, a court may consider a respondent's character as one of the factors in determining the necessity for or the amount of the bond. *See Matter of Andrade*, 19 I&N Dec. at 489. Where an alien makes additional requests for a custody redetermination following an initial request, the request shall be considered only upon a showing that the alien's circumstances have changed materially since the prior bond redetermination. *See* 8 C.F.R. § 1003.19(e).

Aliens do not have the "right" to release on bond. *See Matter of D-J-*, 23 I&N Dec. 572, 575 (A.G. 2003) (citing *Carlson v. Landon*, 342 U.S. 524, 534 (1952)). An immigration judge's decision whether to release an alien on bond requires an initial determination of whether the alien poses a danger to property or persons. *See Matter of Urena*, 25 I&N Dec. 140, 141 (BIA 2009) ("Only if an alien demonstrates that he does not pose a danger to the community should an Immigration Judge continue to a determination regarding the extent of flight risk posed by the alien."). Pursuant to *Matter of Urena*, an alien must demonstrate that he or she does not pose a danger to the community before any release on bond may be considered. *See id.* And, if an immigration judge determines that an alien is a flight risk, he or she has the authority to decline setting a bond amount. *See Matter of D-J-*, 23 I&N Dec. at 584 (finding that the authority to remove aliens is meaningless without the authority to detain those who pose a danger or who are a flight risk during the process of determining whether they should be removed). Federal Regulations provide that an immigration judge's bond determination may be based on "any information that is available to the Immigration Judge or that is presented to him or her by the alien or the [DHS]." *See* 8 C.F.R. § 1003.19(d). Courts have consistently recognized that the Attorney General has extensive discretion when determining whether or not to release an alien on bond. *See id* at 576.

B. FINDINGS OF THE COURT

1. Respondent Cannot Show He is Not a Flight Risk.

Here, Respondent has not presented sufficient evidence that he is not a flight risk. *See Matter of Drysdale*, 20 I&N Dec. 815–17; *see also Matter of Patel* 15 I&N Dec. 666.

Respondent contends that he has potential relief under asylum law. An applicant may demonstrate that he or she is a "refugee" within the meaning of INA § 101(a)(42)(A) in one of two ways: (1) by establishing that he or she suffered past persecution on account of race, religion, nationality, membership in a particular social group, or political opinion; or, (2) by demonstrating that he or she possesses a subjectively genuine and objectively reasonable fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, and that his or her fear is objectively reasonable. *See Silva v. U.S. Att'y Gen.*, 448 F.3d 1229, 1236 (11th Cir. 2006); *see also Sanchez Jimenez v. U.S. Att'y Gen.*, 492 F.3d 1223, 1232 (11th Cir. 2007); 8 C.F.R. § 1208.13(b)(2)(i). In the instant matter, Respondent claims that he will be killed or tortured by the members of the Tekrik-e-Taliban ("TTP") if he returns to Pakistan because of his opposing political views. Respondent claims that his work with Youth Welfare, an NGO focused on meeting the medical needs of the poor, children's education, and women's education and empowerment, made him a target of the TTP because they oppose many of these activities. Respondent states that he resisted repeated threats from the TTP to stop working for the NGO and believes that his resistance has been deemed political. He accordingly seeks asylum on the protected ground of political opinion. Given the evidence currently before the Court, the likelihood of success on the merits of Respondent's asylum application after a full hearing is speculative at this time, especially with regards to the nexus to a protected ground.

Respondent also asserts that he is not a flight risk because he has community ties in the United States through his U.S. citizen cousin, Mr. K[redacted] Though Respondent presents a fixed address at which he could reside if released on bond, the Court finds his connection to Mr. K[redacted] too attenuated to guarantee his presence for future proceedings. While Mr. K[redacted] states that he has steady income and employment and will be able to support Respondent, he provides no information as to how he knows Respondent and to what extent. *See* Exhs. I, M. There is no evidence that any relative residing within the United States has filed an application for relief on Respondent's behalf. Finally, Respondent is a recent arrival to the United States, having only entered the United States on or about February 10, 2017.

The Court finds that, given the speculative nature of the relief sought, the lack of significant community ties, and his recent entrance into the United States, Respondent has not met his burden of proving that he is not a flight risk. *See Matter of Drysdale*, 20 I&N Dec. 815–17.

Accordingly, the Court enters the following order:

ORDER

It is ordered that:

Respondent's request for a bond redetermination shall be **DENIED.**

July 31 2017
Date

Honorable Judge Randall Duncan
United States Immigration Judge
Lumpkin, Georgia

A[redacted]