ORDER SHEET
IN THE ISLAMABAD HIGH COURT,ISLAMABAD
JUDICIAL DEPARTMENT

Criminal Misc. No.41-B of 2022

Hafiz Muhammad Rashid VERSUS The State & another.

Serial No. of order of proceedings	Date of order of proceedings	Order with signatures of judge, and that of parties of counsel, where necessary.
1	2	3
	24.01.2022	Petitioner in person alongwith Mr. Shan Ali Kamboh Advocate for petitioner. Mr. Fahad Ali learned State Counsel with Muhammad Saleem, ASI

Through the instant CrlMisc, petitioner (Hafiz Muhammad Rashid)has prayed for pre arrest bail in FIR No. 507 dated 29.09.2021 under section 406, PPC, PS Lohi Bher, Islamabad.

2. Brief facts leading to the instant FIR are that on 08.05.2021 one Hammad Hassan obtained the car on rent i.e. Toyota Corolla Altis bearing registration No. LEF-4001 for monthly rent of 60,000/- and one Umar Younas stood surety on behalf of the HammadAsad for the said transaction. FIR was registered on 29.09.2021.

3. The learned counsel for the petitioner stated that the petitioner has nothing to do with case in hand, he is not nominated in the FIR, rather he has purchased the said vehicle from one Muhammad Mudassir and sale deed in this behalf has been executed. The learned counsel further contended that the petitioner has lodged an FIR No. 721/2021 at PS SaddarShahkot, District

NankanaSahab against the accused persons who has defrauded him and has deprived him of his hard earned money. The learned counsel further contended that the petitioner was not present in the Pakistan and he came to Pakistan on 10.10.2021; that the petitioner has nothing to do with the case in hand and the offences alleged in the FIR are bailable in nature and no recovery has to be effected from the petitioner.

4. On the other hand, the learned state counsel contended that the accused/petitioner has not been interrogated and the documents presented byhim were executed between one Mudassir and the petitioner while the FIR lodged by the petitioner is against some other persons. The learned State Counsel further contended that the first pre-arrest bail petition of the petitioner was dismissed for non-prosecution on 08.11.2021. He filed second pre arrest bail petition on 13.01.2022after delay of two months and five days, which was also dismissed on the same date and as per the dictum laid down by the Hon'ble Supreme Court of Pakistan and also by this Court that the petitioner has to furnish plausible reason for absence in the first petition and for filing of the second pre-arrest bail.

5. Arguments heard, record perused.

6. In view of the dictum laid down by the Hon'ble Supreme Court of Pakistan in case

of "***Shazaib and others v. The State (PLD 2021 SC 886) and AzamSaleem and another v. The State and others(PLD 2021 SC 894***)", the petitioner has to furnish satisfactory explanation for his absence in the first petition. In case, the explanation is found unsatisfactory, the second petition is held not maintainable and liable to be dismissed without going into the merits of the case.

7. The petitioner has taken the ground that he could not appear on the date fixed i.e. 08.11.2021, as he was away to his native town, located in remote area of District NankanaSahabdue to sickness of his sister. The learned Court of 1st instance has not considered the grounds agitated by the petitioner as plausible in terms that there is no mentioning of disease in laboratory report, petitioner filed second pre arrest bail petition with the delay of almost 2 months and 5 days, he has misused the concession of bail and that filing of repeated bail petitions has been deprecated by the Hon'ble Supreme Court of Pakistan in case law reported as **2015 SCMR 1394**.

8. In the present case, there is a delay of two months and five days in between the dismissal of first pre arrest bail petition due to non-prosecution and filing of the second pre arrest bail petition.

9. In order to show his bona fide, petitioner had to place copy of first pre arrest bail petition, order there upon and to satisfy the Court regarding delayed approach. The explanation advanced cannot be termed *'satisfactory'*, therefore, his such conduct disentitles him to ask for extra ordinary relief/concession of pre arrest bail. Consequently, instant petition for pre-arrest bail is **dismissed**. Ad interim pre arrest bail granted to the petitioner vide order dated 19.01.2022 is recalled.

(ARBAB MUHAMMAD TAHIR)
JUDGE

A.R.ANSARI