ORDER-SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT

Criminal Misc. No.69-B of 2022

Saeed ur Rehman.
Versus
The State etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	02.02.2022	Mr. Shahid Shabbir, Advocate for the petitioner, Raja Gul Nawaz, Advocate for complainant, Mr. Muhammad Zeeshan Babar, State Counsel, Asif SI P.S. LohiBher, Islamabad with record.

This is pre-arrest bail petition filed by accused-petitioner (*Saeed-ur-Rehman*) in FIR No. 599, dated 17.11.2021, under Sections 148, 149, 468, 471, 506(ii), 420, 384, 447 PPC, Police Station Lohi Bher, Islamabad.

2. According to the allegations set-forth in the F.I.R, accused Saeed ur Rehman *(petitioner)* along with co-accused Mujeeb ur Rehman, Sohail Khan, Mehmood ur Rehman, Abdul Rehman, Muhammad Khan, Suleman and 5-6 unknown persons by force of firearms took over possession of the land owned by the complainant and also extended threats of dire consequences.

3. Learned counsel for the petitioner argued that co-accused having same role have already been allowed bail; that offences do not fall within the ambit of prohibitory clause of section 497 Cr.P.C; that the allegation of extortion leveled against the petitioner is not appealable to a prudent mind as no one can ask for to deposit extortion money in his account and that the amount deposited in the account of the petitioner was in lieu of the agreement executed between

Malik Touqeer and the petitioner regarding the rent of the said premises.

4. Learned counsel further argued that a civil suit filed by Malik Tauqeer against the complainant of the instant FIR regarding the property-in-question is pending before the learned Civil Judge Islamabad (East) and that the petitioner has joined the investigation and is no more required for further investigation, therefore, ad-interim pre-arrest bail already granted to him be confirmed.

5. On the other hand, learned State Counsel assisted by learned counsel for the complainant contends that petitioner is specifically nominated in the FIR, who is running a gang of Qabza Mafia; that the petitioner is required for investigation as he joined the investigation after availing pre arrest bail however he is not cooperating with the IO in order to provide information required for completion of the investigation rather showing high handedness towards the police officials and also towards the complainant and that during the pre-arrest bail, he had been pressurizing the complainant to enter into compromise with the accused.

6. Heard, record examined.

7. The remedy of pre arrest bail is an extra ordinary relief, to be extended in exceptional cases where there is apparent malafide on the part of police or complainant. It cannot be invoked in every criminal case particularly in a case where, prima facie, there exists some material, constituting a non bailable or cognizable offence warranting arrest, essential for conclusion of investigation. Reliance is placed upon case of

"Ghulam Farooq Channa v. Special Judge ACE Central-I Karachi and another (**PLD 2020 SC 293**) and "*Gulshan Ali Solangi and others v. The State through PG Sindh*" (**2020 SCMR 249**).

8. In the present case, petitioner is nominated in the FIR with allegations of running Qabza Mafia group, taking forcible possession of the land belonging to the complainant and extortion of money.

9. Record further reveals that civil suit filed by one Tauqeer against the complainant has been withdrawn. The I.O. of the case stated that the petitioner is required for investigation and recovery is yet to be effected from him. The Pay Order issued by the UBL bank amounting to Rs.25 lacs has been deposited in the account of the petitioner and the same has been verified by the Bank Authority. The explanation advanced by learned counsel for the petitioner that the transaction between the parties was regarding the possession of a plot and in lieu of the same, the complainant has transferred the amount in the account of the petitioner, does not seem plausible as the complainant of the case has altogether different assertions to this aspect of the case.

10. The investigation is not complete and petitioner is required for further investigation as specific allegation of extortion of huge amount has been levelled against the petitioner.

11. The rule of consistency, as argued, is not applicable to the case of petitioner due to having commanding role unlike co accused who were allowed bail after arrest on different grounds.

12. In view of above, petitioner is not entitled to the concession of pre arrest bail.

Consequently, the instant petition is **dismissed.** Ad-interim pre-arrest bail granted to the petitioner vide order dated 24.01.2022 is recalled.

13. The observations made hereinabove are tentative in nature and shall not prejudice the case of either party.

(**ARBAB MUHAMAMD TAHIR)**
JUDGE

A.R.Ansari