ORDER SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

JUDICIAL DEPARTMENT

Crl. Misc. No. 75 of 2022

Atif Iltaf Malik, etc VERSUS The State, etc.

Serial No. of order of proceedings	Date of order of proceedings	Order with signatures of judge, and that of parties of counsel, where necessary.
	14.02.2022	Petitioners Atif Iltaf Malik, Aaqib Manzoor, Yasir Iltaf & Rameez Gul on ad-interim pre arrest bail with Mr. Mazhar Iqbal, Advocate. Mr. Muhammad Zeeshan Babar, State Counsel. Mr. Munawar Iqbal Gondal Advocate for respondent. Muhammad Afzal ASI with record.

Through the instant petition, petitioners (*Atif Iltaf Malik, Aaqib Manzoor, Yasir Iltaf & Rameez Gul*) have prayed for pre-arrest bail in cross version of FIR No. 1133, dated 14.12.2021, under Sections 324, 506(II)/34 PPC registered at Police Station Koral, Islamabad.

2- According to the allegations set-forth in the cross version got recorded by respondent No.2 (Tauqeer Arif), on 13.12.2021, at about 08: p.m. Rameez armed with .30 bore pistol, Yasir armed with a repeater and the other two Zaheer and Atif Iltaf having sticks '*dandas*' launched an attack upon the house of his brother-in-law, caused them beating and when the complainant tried to escape, petitioner Atif raised alarm to kill him upon which petitioner Rameez fired a straight shot with pistol which hit on his right thigh, on hue and cry, the assailants fled away by extending life threats.

3- The learned counsel argued that a false case has been registered against the petitioners; that the petitioners were trapped by the complainant in connivance with the local police in the instant cross version; that no occurrence took place at the place of occurrence; that the petitioners are innocent and complainant has attacked upon the petitioners and petitioners have no nexus with the alleged offence; that the case of petitioners is

one of further inquiry and probe, therefore, entitled to the concession of pre arrest bail.

4- On the other hand, learned State counsel assisted by learned counsel for the complainant vehemently opposed the contentions advanced by learned counsel for the petitioners. It is argued that the petitioners are specifically nominated in the cross version with specific role of causing fire arm injuries to the complainant; that the offence alleged falls within the ambit of prohibitory clause of section 497 Cr PC while recoveries are yet to be effected, therefore, petitioners are not entitled to the concession of pre arrest bail. Learned counsel for the complainant relied upon case laws reported as 2021 SCMR 176, 2021 MLD 1997, 2022 MLD 63 and 2022 MLD 101.

5- Arguments heard, record perused.

6- The instant post-arrest bail petition is outcome of cross version of FIR No. 1133 registered on 14.12.2021. On 21.12.2021 petitioner filed first pre-arrest bail before the learned Additional Sessions Judge III, Islamabad (East) which was dismissed on 19.01.2022.

7- Record reveals that the petitioners are specifically nominated in the cross version with the allegation of causing fire arm injury to the complainant/respondent No.2. As per MLC issued by Pakistan Institute of Medical Sciences, Islamabad on 13.12.2021, injury No.1 was observed as *"grazed wound 10x6 cm blackening present. Looking to be contact wound."*

8- There is a specific allegation that the petitioners armed with .30 bore pistol, a repeater and sticks 'dandas' respectively launched an attack upon the complainant with intention to kill. The allegations, *prima facie*, attract Section 324 PPC which falls within the ambit of prohibitory clause of Section 497 Cr.P.C. Once the trigger is pressed and the victim is effectively targeted '*intention or knowledge*' as contemplated by section 324 PPC is manifested. The Hon'ble Apex Court in the case of '*Sheqab Muhammad V. The State and others'* (**2020 SCMR 1486**) has graciously held that.

> "*he cannot be released on bail in the absence of any consideration within the*

purview of subsection 2 of section 497 of the Code ibid. Similarly, murderous assault as defined in the section ibid draws no anatomical distinction between vital or non-vital parts of human body. Once the trigger is pressed and the victim is effectively targeted 'intention or knowledge' as contemplated by the section ibid is manifested; the course of a bullet is not controlled or steered by assailant's choice nor can he claim any premium for a poor marksmanship. Exercise of discretion by the High Court being well within the bounds of law calls for no interference. Petition fails. Leave declined."

9- Furthermore, recoveries are yet to be effected. Sufficient incriminating material in the shape of statement of the injured/complainant and the MLC showing a firearm injury, exists on record which, prima facie, connects the petitioners with the commission of alleged offence, therefore, in view of the attending circumstances, they are not entitled to concession of pre-arrest bail.

10- In view of above, instant Crl Misc is **dismissed**. Ad-interim pre arrest bail granted to the petitioners vide order dated 26.01.2022 is recalled.

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

(ARBAB MUHAMMAD TAHIR)
JUDGE

Kamran