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

Crl. MiscNo. 265-B of 2022

Muhammad Imran

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.
	31.03.2022	Ms. Quraish Mughal, Advocate for petitioner. Complainant in person. Mr. Shahbaz Shah, State counsel along with Waheed ASI.

Through the instant Crl. Misc., petitioner *(Muhammad Imran*) is seeking pre-arrest bail in cross version of crime reported in FIR No.28, dated 02.01.2022, under Section 337-A(ii)/34 PPC registered with P.S, Golra, Islamabad.

2. It is a case of cross-version. The FIR stood registered on the complaint of Mst. Ayesha Jameel wherein respondent No.2-Sheraz Ashraf (complainant of cross version) has been arrayed as an accused while in the cross-version got registered by the latter there are three accused persons namely Safeer Ahmad and his two sons Jameel and Imran (petitioner).

3. Sheraz Ashraf respondent No.2/accused of FIR case and Jameel, accused of cross version have already been admitted to pre-arrest bail while petitioner Imran had been denied the same concession by the Addl. Sessions Judge Islamabad-West vide order dated 14-2-2022. Hence, instant criminal misc.

4. The role assigned to the petitioner is of causing injury on the head of Sheraz Ashraf, respondent No.2, complainant of cross-version.

5. The learned counsel for the petitioner contended that the petitioner has falsely been roped in cross version of instant FIR; that the FIR was lodged against the respondent No. 2, where specific role of causing injuries to the

complainant of the main FIR was assigned to him, in order to discharge the onus of the instant FIR, respondent No. 2 is dragging the family members of the petitioner in the instant case with malafide intention; that the petitioner is a real uncle of the complainant of the main FIR; that the story narrated in the cross version is frivolous and concocted; besides the fact the petitioner is innocent and has no concern with the instant case, that the case of the petitioner is one of further inquiry, therefore petitioner is entitled for the concession of bail. Learned counsel relied upon case law reported as (2020 SCMR 677), (2021 P Cr L J 1582), (2021 P.Cr L J 1096), (2007 P Cr L J 116), (2007 P Cr L J 645), (2005 P.Cr L J 1604) and (2005 YLR 2350).

6. On the other hand learned State counsel repelled the above submissions by contending that petitioner is specifically nominated with specific role of causing head injury; that recovery is yet to be effected, therefore, extra ordinary concession of pre arrest bail cannot be extended to the petitioner.

7. Arguments heard, record perused.

8. It is settled principle that remedy of pre arrest bail being an extra ordinary relief is meant to save innocent from false implication, rigors of trial and humiliation. The Hon'ble Apex Court in case of "*Gulshan Ali Solangi and others v. The State through P.G. Sindh*" *(***2020 SCMR 249***)* has graciously held that:-

> "grant of pre-arrest bail is a remedy routed into equity; at a cost to hamper the investigation, this judicial protection is extended, solely to save the innocent from the horrors of abuse of process of law with a view to protect his dignity and honour. **It cannot be granted in every run of the mill criminal case, particularly to the accused confronted prima facie charges structured upon material/evidence, warranting custody, that too, on the basis of positions/pleas verification whereof, is consequent upon recording of evidence**." {Emphasis added}

9. In the present case, the role assigned to petitioner *Muhammad Imran* is of causing *injury* on the head of respondent No.2/complainant of cross version. He was examined on the same day, while MLR confirms that the injury was inflicted with blunt weapon which resulted in *lacerated wound 5.6 cm deep up to bone, fron to-peritall region*. The Medical Officer declared nature of the injury as "*Shajjah-i-Mudihah"* which falls under Section 337-A (ii) P.P.C *punishable* with Arsh, 5% of Diyat and imprisonment which may be extended up to 5 years as Ta'zir.

10. The petitioner is specifically nominated with role of causing blunt weapon injury on the head of respondent No.2 which is vital part of the body. The MLR corroborates the version of the complainant with further corroboration qua kind of weapon.

11. Keeping in view the peculiar circumstances of the case, guidance is taken from the latest pronouncement of the Hon'ble Apex Court in **Criminal Petition No.149-K of 2020**, titled *"Kamran Ataullah and another v. The State*" wherein it is held as under:-

> "It is by now well settled that the accused in a criminal case cannot be granted anticipatory bail to subvert or undermine investigative procedure/process that **essentially include arrest in order to bring the statutory exercise to its logical end for effective and meaningful prosecution of the offence through the collection of information/evidence consequent upon arrest.** Malafide, manifestly intriguing upon the intended arrest, is the only justification to suspend or divert the usual course of law, a step most extra ordinary by all means; it is not a case in hand. Petition fails. Leave declined."(Emphasis added)

13. In view of above tentative assessment sufficient tangible evidence exits on record which, prima facie, connects the petitioner with the commission of alleged offence,

therefore, in the attending circumstances he is not entitled to extra ordinary relief of pre arrest bail. Consequently, instant bail petition is **dismissed.** Ad-interim bail granted to the petitioner vide order dated 10.03.2022 is recalled.

(ARBAB MUHAMMAD TAHIR)
JUDGE

//*Kamran*//