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

Criminal Misc. No. 593 of 2022

Malik Farhan Ali Awan

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.
	03.06.2022	Mr. Zahid Asif Ch & Muhammad Bilal, Advocates for petitioner. Mr. Fazal Elahi, Advocate for respondent. Ms. Sadia Shahzadi, State Counsel alongwith Safdar, S.I.

Through the instant criminal misc., petitioner/accused (Malik Farhan Ali Awan) prays for pre-arrest bail in FIR No.341, dated 10.03.2022, under Section 420/468/471 PPC, registered with Police Tarnol, Islamabad.

2- As per contents of the FIR the petitioner/accused along with others committed fraud with the complaint for the sale/purchase of plot No. 38 measuring 50x60 Block-B; that the petitioner introduced himself as owner of the said plot to the complainant and received one million rupee in lieu of sale of the said plot from the complainant, despite the fact that he was not the owner and failed to transfer the said plot to the complainant/respondent.

3. The learned counsel for the petitioner stated that the petitioner has falsely been implicated in the instant case; that the petitioner has committed no offence and a false and frivolous case was registered against the petitioner; that the FIR was registered against the petitioner with the delay of 6 months; that as per FIR no allegation of inducement , preparation of any forged document or using the same as genuine has been labeled against

the petitioner; that the alleged amount was paid by the complainant to one Niamat Ullah as earnest money rather than to petitioner; that the dispute between the parties is purely of civil nature which has been malafidely converted into criminal litigation by the complainant; that the local police has joined hands with the complainant for the arrest of the petitioner; hence instant bail petition.

4. On the other hand, learned State counsel assisted by learned counsel for the complainant/respondent No. 2 argued that the petitioner has been found involved in the commission of alleged offence; that sufficient material is available on record which connects the petitioner with the commission of offence, therefore, not entitled to the concession of bail at this stage.

5. Arguments heard, record perused.

6. Perusal of the record reveals that the petitioner is nominated in the instant FIR with specific role under Section 468,471 & 420. The learned counsel for the private respondent, when confronted as to how Section 468,471 PPC are applicable in the instant matter as the petitioner is admitting the receipt which he has provided to the private respondent, frankly stated that section 468 & 471 PPC are not applicable and further stated that since he had defrauded the private respondent therefore, Section 420 PPC in the instant matter is very much applicable.

7. The bare perusal of the Section 420 PPC would reveals that the offence is bailable in nature and the petitioner has joined the investigation in the matter and is no more required for further probe or investigation, as the documents pertaining to the petitioner have already been taken into possession by the I.O of the case, through recovery memo therefore, the incarceration of the petitioner would serve no purpose and the such like case, the rule is bail not jail. Reliance is placed upon case law reported as **(PLD 2021 SC 708).**

8. In view of above, instant criminal misc. is allowed, ad-interim bail granted to the petitioner vide order dated 10.05.2022 is confirmed subject to furnishing fresh bail bonds in the sum of Rs.50,000/- with one surety in the like amount to the satisfaction of the learned Trial Court.

9. The observations recorded hereinabove are tentative and shall have no impact upon merits of the case.

(ARBAB MUHAMMAD TAHIR)
JUDGE

//Kamran//