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

Criminal Misc. No. 780-B/2022
Mst. Abida Qasim
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.
	18.07.2022:	Sardar Najeeb-ur-Rehman, Advocate for petitioner. Mr. Jamil Fayyaz Rajput, State Counsel along with Muhammad Nawaz, ASI.

Through the instant bail petition, petitioner *(Mst. Abida Qasim)* prays for pre-arrest bail in FIR No. 114, dated 24.01.2022 under Section 406 PPC at P.S. Lohi-Bher, Islamabad.

2. The subject FIR stood registered on the written application of respondent No. 2 namely *Ammar Ijaz Abbasi* with the allegations that on 12.12.2020, in presence of witnesses namely Noman, Ghufran and Nadeem Razzaq, he handed over an amount of Rs. Three Crore and gold weighing Eight Tolas to the petitioner, who misappropriated the same and thus committed breach of trust.

3. At the inception, it is noticed that this is 3rd pre arrest bail petition, filed by the petitioner, while earlier her two pre arrest bail petitions were dismissed for non-prosecution by the learned ASJ-IV Islamabad-East.

4. In response, learned counsel argued that the absence of the petitioner was neither deliberate nor intentional but due to her undergoing medical treatment for a chronic disease. In order to fortify the submission, refers prescriptions, discharge summary and a certificate issued by the Shifa International Hospital Ltd.

Islamabad. On merits, learned counsel asserted that the petitioner never received any amount from the complainant rather the latter had to pay certain amount to the former on account of purchase of a vehicle and that on her persistent demand, the complainant got registered the subject FIR in collusion with the local police.

5. On the other hand, learned State counsel repelled the above submissions by contending that the petitioner is a habitual offender, playing hide and seek with the Court on the pretext of ailment, sufficient incriminating material is available on record which, prima facie, connects the petitioner with the commission of alleged offence, therefore, in absence of malice or malafide on the part of complainant or police, extra ordinary discretion of pre-arrest bail cannot be exercised in favour of the petitioner.

6. Learned State Counsel while highlighting the previous conduct of the petitioner further argued that she is involved in five other cases pertaining to offence under section 420, 468, 471-PPC, besides offence under section 489-F & 406-PPC registered in District Chakwal, Rawalpindi and Islambad and that her conduct, otherwise, disentitles her to ask for extra ordinary relief of pre arrest bail which is meant only to save innocent from false implication.

7. Argument heard, record perused.

8. The principle on the subject has been laid down by the Hon'ble Apex Court in the case of *'Shahzaib and others v. The State'* **(PLD 2021 SC 886)** and *'Azam Saleem and another v. The State and others'* **(PLD 2021 SC 894**), in terms that where first pre arrest bail petition was dismissed for non-prosecution, the petitioner has to furnish satisfactory explanation for his/her absence in the first petition and in case his/her explanation is

found unsatisfactory, **the second petition is held not maintainable and liable to be dismissed without going into the merits of the case.**

9. On the touchstone of the principle ibid, record has been perused whereby it reveals that the subject FIR was registered on 24.01.2022. The petitioner applied for pre-arrest bail on 28.01.2022 which was dismissed for non-prosecution by the learned ASJ-IV, Islamabad-East vide order dated 08.02.2022. She, **after delay of more than four months**, filed second pre-arrest bail petition on 07.06.2022, which met the same fate vide order dated 09.06.2022 by the same learned Court. The instant Crl. Misc., which is the third pre-arrest bail petition, was filed on 15.06.2022 after delay of four days.

10. Adverting to the ground of ailment, it is noticed that the Discharge Summary (Surgery) issued by the Hameed Latif, Hospital, Lahore bears the date of entry-DOA as 09.06.2022 at 4:26 pm. She was discharged on 11.06.2022. The prescription dated 13.06.2022 issued by one Dr. Maaz ul Hassan, a Consultant Laparoscopic, General and Obesity Surgeon, of the said Hospital reveals that the patient remained admitted for two days and was advised to have rest for three weeks w.e.f. 12.06.2022. Another prescription issued by Dr. Anwar Ahmad, Consultant General Surgeon, Shifa International Hospitals Ltd., Islamabad, bears the date of her admission as 28.06.2022.

11. It is thus obvious that the stated period of ailment commences from 09.06.2002 while the subject FIR stood registered much prior to said date on 24.01.2022. She applied for her first pre-arrest bail after four days' of the registration of FIR on 28.01.2022 which was dismissed for non-prosecution on 08.02.2022. After dismissal of her first pre arrest bail petition, she had been keeping herself away from the process of law for more

than **four months**, and then filed second pre-arrest bail petition on 07.06.2022, which was also dismissed for non-prosecution on 09.06.2022. In the attending circumstances, it appears that the petitioner had been playing hide and seek with the courts and her explanation for above stated reasons cannot be termed *'satisfactory'*, rather disentitles her to ask for extra ordinary concession of pre arrest bail.

12. In-addition, filing of repeated bail petitions has been deprecated by the Hon'ble Supreme Court of Pakistan in case law reported as **2015 SCMR 1394**.

13. In view of above, instant crl. Misc. is **dismissed**. Ad interim pre arrest bail granted to the petitioner vide order dated 16.06.2022 is recalled.

(ARBAB MUHAMMAD TAHIR)
JUDGE

//Kamran//