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

Criminal Misc. No. 843-B of 2022

Abdul Basit

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.
	07.07.2022	Mr. Shahbaz Zahid, Advocate for petitioner. Mr. Yasir Aziz Malik, Advocate for respondent/complainant Mian Zain Qureshi, State counsel with Umar Hayat, S.I.

Through the instant criminal misc., petitioner/accused (Abdul Basit) prays for post-arrest bail in FIR No.909, dated 28.04.2022, under Sections 365, 384 & 355 PPC read with section 25-D of the Telegraph Act, registered with Police station Koral, Islamabad.

2. According to the allegations set-forth in the **FIR, on 05.12.2021** when the complainant had been present in Karachi Hospital, Islamabad, two boys emerged, gave him beating, extracted Rs. 10,000/- form his pocket besides a cell phone and also snatched his licensed repeater gun; that the assailants had also extended life threats and that he reported the matter to police station Koral, Islamabad.

3. The complainant further alleged that **after about a month**, he received a call on his cell phone whereby he was asked to receive back his articles; that in the meanwhile, he became sick while the person who had been calling told his name as Basit

(petitioner); that **he had also received a call in the month of Ramdan** whereby he was directed to come at the location of IDC Taramri, on 25.04.2022 after Iftari; that complainant reached the said place on his vehicle where the person sat in his car along with two unknown persons; that they drove the vehicle for an hour and reached at an unknown place and took him to a nearby house where another person was already present; that besides Rs. 5000/- cash his other cell phone driving license, transfer letter of his vehicle and smart card were taken out of his pocket and after wrapping a strip of cloth on his eyes, made him nude; that they called a girl and directed him (*complainant*) to lay on the bed along with the said girl and on refusal they gave him beating and by inflicting kick blows put the complainant on the said girl; that the assailants made picture and thereafter demanded Rs. Ten lac with the threat that otherwise the pictures would be put on what's' app and would also be sent to his family members; that they also got written on a paper that he had (*complainant*) committed Zina; that subsequently they demanded Rs. Five lac out of which Rs. Two lac had to be paid at 5:00 pm on 27.04.2022 while the rest Rs. 3 lac in May, 2022 and that after extending threats the complainant was released and then he came to his Clinic in Ali Pur.

4. The complainant further alleged that **on 27.04.2022 at about 11:00** he again received threatening calls and messages and requested for legal action against the culprits.

5. Learned counsel argued that the petitioner has falsely been implicated in this case; that nothing was recovered from his possession; that there is unexplained delay in reporting the matter to the police; that there is no private witness of the alleged occurrence; that case of the petitioner is one of further inquiry who is a previous non-convict and non-record holder; that investigation has been completed and his further incarceration would serve no

useful purpose, therefore entitled to the concession of post arrest bail.

6. On the other hand, learned State counsel assisted by the learned counsel for the complainant repelled the above submissions by contending that the petitioner is nominated in the FIR; that recovery of snatched repeater gun of the complainant has been effected from his possession; that the material collected by the prosecution, prima facie reflects his evil designs and that the offence alleged is heinous in nature, therefore, petitioner is not entitled to the concession of post-arrest bail. The learned counsel relied upon case law reported as ***2016 PCr.LJ note 104, 2006 MLD 296, 2014 YLR 740, 2017 YLR 1712 (GB), 2017 MLD 560, PLD 2013 Islamabad 66, 1990 MLD 204.***

7. Arguments heard, record perused.

8. It is settled principle that while deciding a bail application, only tentative assessment of the material collected by the prosecution is permissible.

9. In the present case, it divulges from the contents of FIR itself that the incident of alleged snatching of repeater gun took place on **05.12.2021** but no FIR was got registered by the complainant at the relevant time.

10. The contents of the FIR further reveal that after the alleged occurrence of **05.12.2021**, the complainant was allegedly contacted by the petitioner **after about a month**. But this time too, the complainant opted not to report the matter forthwith to the police. Furthermore, the complainant was again contacted by the assailants in the **month of Ramadan,** but this time the incident was not reported to the police and his last report on the basis of

which the instant FIR was got registered had also been made with a delay of three days.

11. The above aspects, if seen in juxtaposition with the recovery of repeater gun, allegedly made from possession of the petitioner relating to incident that took place about four months ago, makes the case one of further inquiry.

12. The offences alleged do not fall within the ambit of prohibitory clause of Section 497 Cr.P.C wherein grant of bail is *rule* and refusal is an *exception*. Nothing has been highlighted by the prosecution to explore that case of the petitioner falls under the latter category *"exception".*

13. In view of above tentative assessment, the petitioner has succeeded to make out a case for grant of post-arrest bail at this stage. Consequently, instant criminal misc. is **allowed.** The petitioner is admitted to bail subject to his furnishing bail bonds in the sum of Rs. 50,000/- with one surety in the like amount to the satisfaction of the learned Trial Court.

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

(ARBAB MUHAMMAD TAHIR)
JUDGE

//*Kamran*//