ORDER-SHEET
IN THE ISLAMABADHIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Criminal Misc. No. 131-B/2025

Abdul Aziz, etc.

Versus

The State.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	20.02.2024	Mr. Babar Awan, Syed Muhammad Ali Bukhari, Ms. Amna Ali, Sardar Masroof Khan, Mr. Murtaza Hussain Toori, Mirza Asim Baig, Mr. Ansar Mehmood Kayani, Fateh Ullah Barki, Mr. Hassan Sajjad, Mr. Zakria Arif, Mr. Muhammad Azam, Mr. Yasir Azeem Khan, Mr. Afrasayab Ahmed Rana, Mr. Rashid Ali, Muhammad Fiaz kandwal, Mr. Abdul Qadeer Aimal Khan Mandokhail, Azeem Khan Niazi, Jaseem Ahmed Bhutto, Syeda Kashmala Susan, Adnan Iqbal, Amir Aziz Ansari, Malik Muhammad Nauman, Zafar Hussain, Waqar Ahmed Warriach, Waseem Ullah Khan Niazi and Mr Mujahid Islam, Advocates for the petitioners in their respective petitions. Mr. Jawad Hussain Adil, Special Public Prosecutor. Mr. Adnan Ali, Deputy Public Prosecutor. Mr. Arsalan Shahzeb, SSP (investigation), Islamabad. Mr. Khalid Mehmood Awan, SP, City, Islamabad. Mr. Hassan Raza, DSP (Legal), Islamabad. Mr. Tariq, Inspector, P.S. Secretariat, Islamabad. Mr. Shafqat, Inspector. P.S. Noon, Islamabad Mr. Muhammad Afzal, Inspector, P.S. Margallah, Islamabad. Mr. Muhammad Ali, Inspector, P.S. Abbapara, Islamabad.

MUHAMMAD ASIF, J: Through the instant petition under Section 497 Cr.P.C, petitioners namely Abdul Aziz, Nisar Ahmed and Hazrat seek post-arrest bail in F.I.R. No. 544, dated 27.11.2024, registered under sections 148, 149,109, 186, 353, 440, 395, 324, 365, 506 (ii), 290, 201, 188, 155, 436, 114, PPC section 8 PAPO, 7 and 21-I, 11x ATA 13/20/65 AO at Police Station Secretariat, Islamabad.

2. The learned counsel for the petitioners submits that no specific role has been attributed to the petitioners and no circumstantial evidence is available on record which connects the petitioners with the commission of the alleged offence; that it is a

political motivated case; that the petitioners have falsely been implicated in the instant FIR, the investigation in the case has been completed and the petitioners are no more required for investigation, therefore, entitled for the concession of post-arrest bail.

3. On the other hand, the learned Special Public Prosecutor assisted by Deputy District Public Prosecutor vehemently opposed the instant bail petition with the contention that there is likelihood of such offences being repeated by the petitioners. Reliance is placed upon the case *Tariq Bashir and others v. The State* **(PLD 1995 SC 34);** Sufficient incriminating material is available on record which connects the petitioners with the commission of alleged offences.

4. Arguments heard, record perused.

5. It is well settled principle that every criminal case is required to be seen in the light of its own peculiar facts and circumstances and while deciding bail application only tentative assessment of the material collected during the course of investigation is permissible. Likewise, if an offence that does not fall within the ambit of the prohibitory clause of section 497 Cr.P.C, grant of bail is a rule and refusal is an exception.

6. Perusal of the record shows that the FIR was registered on 27.11.2024. In the FIR, a large number of accused have been specifically nominated, with specific roles. The petitioners were not arrested from the crime scene; rather, they were arrested after the incident from different locations, pursuant to the disclosure of the co-accused. No specific role has been assigned to the extent of the petitioners in the FIR. In the absence of any specific role in the FIR to the extent of the present petitioners, their identification, involvement and role in the commission of offence definitely renders the case as one of further inquiry. The applicability of the provisions of the Anti-Terrorism Act, 1997 to the extent of the

present petitioners would also be seen at the trial stage by the learned trial court. The conclusion of the trial is not in sight. In the circumstances, keeping the petitioners incarceration for an indefinite period will not serve any useful purpose. This Court is, therefore, of the opinion that the petitioners are entitled to be released on bail.

7. It has been aptly observed by the august Supreme Court in the case of *'Manzoor and 4 others versus The State'* [PLD 1972 SC 81] as follows:

> *"The ultimate conviction and incarceration of a guilty person can repair the wrong caused by a mistaken relief of interim bail granted to him, but no satisfactory reparation can be offered to an innocent man for his unjustified incarceration at any stage of the case albeit his acquittal in the long run."*

8. In view of above tentative assessment, petitioners have succeeded to make out a case for grant of post arrest bail at this stage. Consequently, instant criminal miscellaneous is **allowed.** The petitioners are admitted to post arrest bail subject to their furnishing bail bonds in the sum of Rs.20,000/- (Twenty thousand only) each with one surety each in the like amount to the satisfaction of the learned Trial Court. The petitioners shall be at liberty to deposit cash surety. The counsels for the petitioners are directed to furnish their affidavits with the Deputy Registrar (Judicial) of this court with respect not to cause/repeat the same offences in future.

9. The observations made hereinabove are tentative in nature and shall not prejudice the case of either party during trial.

(ACTING CHIEF JUSTICE) **(MUHAMMAD ASIF)**
JUDGE

//Kamran//