ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

JUDICIAL DEPARTMENT.

Crl. Misc. No. 776-B of 2025

RAJA WAQAR RIAZUL

Versus

THE STATE AND OTHERS

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	09.05.2025	Mr. Zeeshan Riaz Cheema, Advocate for the Petitioner. Raja Rizwan Abbasi, Advocate for the Complainant/Respondent No. 2. Rana Hassan Abbas, ADPP.

1. Through the instant petition, the Petitioner is seeking post-arrest bail in the case of FIR No. 204/25 dated 20.03.2025 registered for the offences under Sections 341, 506(ii) and 34, of the Pakistan Penal Code, 1860 **("PPC")** with Police Station Ramna, Islamabad **("Subject FIR")**.

2. Brief facts, as per the FIR, are that on 19.03.2025 at approximately 10:00 a.m., the Complainant had gone to the District Courts in connection with his work, when suddenly Riazul and the Petitioner approached him, grabbed him by the collar, and started physically assaulting him while also threatening to kill him. It was further alleged that after the Complainant completed his work and proceeded towards his vehicle outside the District Court's premises, the aforementioned accused along with three unidentified individuals forcibly pushed him into a vehicle. Thereafter, Riazul and the Petitioner allegedly pulled out their 30-bore pistols, pointed them at the Complainant's head, and warned him not to be seen again with the Patwari, else he would be killed. The accused allegedly committed criminal intimidation, beat the Complainant and subjected him to severe mistreatment. It was stated that the incident was witnessed

by several persons. Hence, the Subject FIR was registered against the Petitioner, Riazul and three unknown persons.

3. The learned counsel for the Petitioner submits that the allegations leveled in the FIR, are baseless, concocted, and reflect *malafide* intent, as the Petitioner has been falsely implicated in a case registered with undue delay. It is contended that co-accused Raja Muhammad Riazul, who has been attributed a similar role, has already been granted pre-arrest bail by the learned Sessions Judge, Islamabad (West) vide Order dated 19.04.2025, and hence, the Petitioner is also entitled to the same relief under the rule of consistency. The learned counsel further submits that the Petitioner had also moved an application under Section 22-A Cr.P.C., wherein the Investigating Officer (IO) reported that CCTV cameras at the place of occurrence were non-functional, and the learned Court accordingly directed that the investigation be conducted purely on merits through material evidence. It is argued that no recovery is to be effected from the Petitioner, the alleged offences do not fall within the prohibitory clause of Section 497 Cr.P.C., and the Petitioner is neither a flight risk nor likely to tamper with evidence. He has no previous criminal record, is a respectable citizen, and is ready to cooperate with the investigation and furnish surety to the satisfaction of the Court. The learned counsel therefore prays for confirmation of pre-arrest bail, as the Petitioner has been falsely roped in due to ulterior motives and police collusion, with no evidence on record to justify his arrest.

4. Conversely, the learned ADPP assisted by the learned counsel for the Complainant/Respondent No. 2 submitted that there is sufficient material available on record to connect the Petitioner with the commission of the alleged offences; that the Petitioner is a habitual offender as there are several other criminal

cases registered against the Petitioner; and that the Petitioner is not entitled to the grant of bail.

5. I have heard learned counsel for the parties and perused the record.

6. Perusal of the record reveals that the allegations leveled in the Subject FIR against the Petitioner are similar in nature to those attributed to the co-accused, namely Raja Muhammad Riazul, who was granted pre-arrest bail by the learned Sessions Judge, Islamabad (West) vide Order dated 19.04.2025. However, the Petitioner's bail application vide the said Order was dismissed despite no distinguishable factual difference between the roles ascribed to the Petitioner and the said co-accused. This differential treatment is inconsistent with the rule of consistency, which mandates that similarly placed accused should not be treated differently without justifiable legal or factual grounds.

7. It is well-settled through pronouncements of the august Supreme Court and High Courts that pre-arrest bail matters require strict observance of procedural fairness, and judicial discretion must be exercised in a reasoned and uniform manner. The record does not indicate any sound reasoning justifying the departure in treatment between the Petitioner and his co-accused. This Court is of the considered view that the absence of consistent reasoning in the above said order and the failure to consider the principle of parity constitute material irregularities.

8. In view of the above, the matter is remanded to the learned Sessions Judge, Islamabad (West) with a direction to re-hear and decide afresh the pre-arrest bail applications of both the Petitioner and co-accused Raja Muhammad Riazul in light of the observations made herein.

9. The Petitioner is directed to appear before the learned Sessions Judge, Islamabad (West) on 13.05.2025, where the matter shall be heard and decided afresh along with the bail application of co-accused Raja Muhammad Riazul.

10. Before parting with this Order, it is pertinent to observe that a concerning practice has been noted in the Courts below, whereby the fate of pre-arrest bail petitions is frequently announced in the absence of the accused and the Investigating Officer, despite clear directions issued by this Court time and again in this regard**.** Such a practice not only undermines the transparency and procedural fairness expected in bail matters but also facilitates the accused in evading the due process of law, particularly where a bail petition is dismissed and the accused absconds or approaches this Court on the same grounds. In order to curb this irregularity and to ensure strict adherence to the settled judicial norms, it is hereby directed that copies of this order be communicated to the learned District & Sessions Judges, Islamabad (East and West), through the learned Member Inspection Team of this Court, with a further direction to instruct all learned Additional District & Sessions Judges to announce orders in pre-arrest bail petitions in open court, in the presence of both the accused and the Investigating Officer. Compliance with this directive shall be ensured in letter and spirit to promote judicial consistency, uphold the rule of law, and prevent procedural abuse.

(MUHAMMAD AZAM KHAN)
JUDGE

Adnan