JUDGMENT SHEET.
ISLAMABAD HIGH COURT, ISLAMABAD,
JUDICIAL DEPARTMENT.

Criminal Revision No.74 of 2026

Nadeem Ikram

Vs.

The State and another

Petitioner by:	Malik Sanaullah Saif, Advocate.
Respondents by:	Ms. Asma Irfan, learned SPP along with Arif, SI for the State. Nemo for respondent No.2.
Date of Hearing:	**02.09.2026.**

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INAAM AMEEN MINHAS, J.- Through the captioned writ petition, the petitioner, Nadeem Ikram, has assailed the order dated 12.01.2026 passed by the learned Judge, GBV (West), Islamabad to the extent whereby he was directed to furnish fresh surety **equivalent to the diyat amount** within three days for the satisfaction of the said Court.

2. The facts in brief giving rise to the filing of the present petition are that the petitioner is accused in FIR No.474/25 dated 05.09.2025, registered at Police Station Noon, Islamabad, under Section 322 of the Pakistan Penal Code, 1860 (**"PPC"**), wherein it was alleged that the petitioner, while driving rashly and negligently, caused a road accident resulting in the death of Mst. Nasreen Akhtar.

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The petitioner was granted ad-interim pre-arrest bail by the learned Trial Court on 04.10.2025.

3. It is the case of the petitioner that all the legal heirs of the deceased, including the complainant and the brother of the deceased, appeared before the learned Trial Court and, while forgiving the petitioner in the name of Allah Almighty, expressed their no objection to the grant of bail and his ultimate acquittal. Their statements were duly recorded and the compromise/forgiveness was placed on the record. Vide impugned order dated 12.01.2026, the learned Court below confirmed the petitioner's *ad-interim* pre-arrest bail. However, such concession was made subject to the condition that the petitioner shall pay/deposit or furnish security equivalent to the entire Diyat amount within three days, failing which the bail granted in his favour would stand vacated.

4. Learned counsel for the petitioner has assailed the aforesaid condition primarily on the ground that the same is excessive, onerous and practically incapable of compliance. It has been contended that the petitioner is a poor taxi driver dependent upon his daily earnings and does not possess sufficient financial resources, property or other means to arrange an amount equivalent to the entire Diyat, which runs into millions of rupees. Learned counsel further submitted that the petitioner has remained on ad-interim pre-arrest bail since 04.10.2025 without misusing the concession, while all the legal heirs of the deceased have appeared before the learned Trial Court and expressed their forgiveness and no-objection. According to learned counsel, the condition imposed by the learned Trial Court has, in

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effect, rendered the concession of bail illusory. He prayed for the petition at hand to be allowed in terms of the relief sought therein.

5. Learned State counsel as well as learned counsel for the petitioner have been heard and the record has been perused. Although respondent No.2/complainant was duly served through the S.H.O. concerned, he has neither appeared in person nor through counsel despite service.

6. The controversy involved in the instant petition is narrow and essentially concerns the legality and proportionality of the condition imposed by the learned Trial Court. The question requiring determination is whether, having found the petitioner otherwise entitled to the concession of pre-arrest bail, the learned Trial Court could lawfully make such concession conditional upon payment/deposit or furnishing of security equivalent to the entire Diyat amount within three days, particularly when such condition is stated to be beyond the petitioner's financial capacity.

7. There can be no cavil with the proposition that the grant or refusal of bail, as well as the imposition of appropriate conditions for securing the attendance of an accused, falls within the judicial discretion of the Court. Such discretion, however, is neither unfettered nor arbitrary and must be exercised judicially, within the parameters prescribed by law and the principles enunciated by the superior Courts. In this regard, Section 498 of the Code of Criminal Procedure, 1898 **("CrPC")** expressly provides that the amount of every bail bond shall be fixed with due regard to the circumstances of the case and **"shall not be excessive."** For ease of reference, the said Section is reproduced herein below:-

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> *"498. Power to direct admission to bail or reduction of bail.* ***The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive****; and the High Court or Court of Session may, in any case, whether there be an appeal on conviction or not, direct that any person be admitted to bail, or that the bail required by a police-officer or Magistrate be reduced"*

Emphasis supplied.

8. Likewise, Section 499 Cr.P.C. reflects the purpose of a bail bond, namely, to secure the appearance of the accused before the Court. The statutory scheme, therefore, does not contemplate that the concession of bail may be made subject to an excessive financial condition having no reasonable nexus with securing the attendance of the accused.

9. The Hon'ble Supreme Court in ***Saeed Zaman v. The State and another (2020 SCMR 1855)*** examined the scope and purpose of bail bonds and sureties and held, in substance, that the amount of bail bond must be reasonable and consonant with the circumstances of the case. The Hon'ble Apex Court deprecated the imposition of a condition requiring the accused to deposit a substantial amount as a prerequisite for enjoying the concession of bail, observing that the bail regime is intended to secure the presence of the accused during the proceedings and cannot be converted into a mechanism for securing a monetary liability which is yet to be finally adjudicated. The Court consequently set aside the condition requiring such deposit. The relevant portion of the said report reads as follows:-

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> *"**In the event of his release on bail, the Court may require an accused to execute a bond either personally or through sureties amount whereof "shall be fixed with due regard to the circumstances of the case, and shall not be excessive."** The bond by the accused or the sureties, as the case may be, has to be executed to ensure compliance, contemplated by section 499 of the Code of Criminal Procedure 1898 ('the Code').*
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> **Emphasis supplied.**

10. Furthermore, it was held that *"the survey of above provisions clearly demonstrates that in case the Court consider it expedient to release an accused on bail pending conclusion of his trial, **it can certainly require him to execute a bond either personally or through sureties, setting conscionable amounts therein**, having regard to the facts and circumstances of each case with a view to ensure future attendance*"

Emphasis supplied.

11. The aforesaid principle was reiterated by the Hon'ble Supreme Court in **Javed Iqbal v. The State through D.A.G., Islamabad and another (2023 SCMR 401)**, wherein the Court, while examining the statutory framework governing bail bonds and sureties, emphasized that the amount of bail bond must be fixed having regard to the circumstances of the case and must not be excessive. The amount must be conscionable and related to the legitimate object of securing the future attendance of the accused. The discretion vested in the Court to prescribe surety, therefore, cannot be exercised in a manner

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which makes the concession of bail practically impossible for the accused to avail. The relevant excerpt of the said report reads thus:-

> ***"When the Court comes to a conclusion that an accused is entitled to be released on bail then of course such bail granting order cannot be subjected to riders and conditions."***

12. The underlying principle is equally reflected in **Jehanzeb Khan v. The State through A.G. Khyber Pakhtunkhwa and others (2020 SCMR 1268),** wherein the Hon'ble Supreme Court observed that although the Court, having regard to the facts and circumstances of each case, may decline the concession of bail even where the offence does not fall within the prohibitory clause, corporal coercion cannot be employed as a means to extract expeditious settlements or concessions from an accused in return for his promised release. It was further held that, where an accused has otherwise made out a case for bail, the grant thereof cannot be made subject to riders or conditions which have the effect of frustrating the concession so granted. The Hon'ble Supreme Court also emphasized that, in the administration of criminal justice, the Court, being an independent adjudicator at every stage of the proceedings, is required to scrupulously maintain its neutrality and cannot assume the role or responsibility of either side. The power to impose conditions is intended to regulate the enjoyment of bail and secure the administration of justice; it cannot be exercised in a manner which effectively converts a judicial order granting bail into an order of continued detention.

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12. Applying the aforesaid principles to the facts of the present case, the condition imposed by the learned Trial Court cannot be sustained in its present form. The petitioner was found entitled to the concession of pre-arrest bail, yet he was directed to pay/deposit or furnish security equivalent to the entire Diyat amount within a period of three days, with the further stipulation that failure to comply would result in automatic vacation of bail. The petitioner has placed before the Court his financial circumstances, stating that he is a poor taxi driver dependent upon his daily earnings and possesses no substantial financial resources or property enabling him to arrange an amount running into millions of rupees within such a short period. Nothing has been brought on record to materially discredit this assertion.

13. The financial capacity of an accused cannot be ignored when determining whether the amount or condition attached to bail is excessive. The statutory command contained in Section 498 Cr.P.C. requires the Court to have due regard to the circumstances of the case and expressly prohibits an excessive bail bond. A condition which is so onerous that an accused, despite having been found entitled to bail, cannot secure his release solely because he lacks the financial means to comply with it, effectively defeats the concession granted by the Court. In such circumstances, the condition ceases to operate as a legitimate safeguard for securing attendance and assumes the character of an indirect refusal of bail.

14. It is also necessary to maintain a distinction between Diyat, which is governed by the substantive law relating to Qisas and Diyat, and a bail bond or surety, which is a procedural security regulated by

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the Cr.P.C. The former represents a consequence arising under substantive criminal law, whereas the latter serves the limited purpose of ensuring the attendance of the accused before the Court. The two concepts cannot be conflated merely because the offence alleged carries a Diyat consequence. The mere existence of a Diyat component in an offence does not furnish an independent legal basis for requiring the accused, as a condition of bail, to deposit or secure an amount equivalent to the entire Diyat.

15. The distinction assumes greater significance where the condition is imposed before the substantive liability has been finally determined. A bail condition cannot be employed as a substitute for adjudication of the consequences flowing from the offence, nor can the procedural security contemplated by Sections 498 and 499 Cr.P.C. be transformed into a means of securing payment of a substantive monetary liability. To hold otherwise would permit the bail jurisdiction to be used for a purpose entirely different from that for which the requirement of a bail bond has been prescribed by law.

The conduct of the petitioner during the proceedings also merits consideration. He has remained on ad-interim pre-arrest bail since 04.10.2025, and no material has been brought before this Court suggesting that he has misused the concession, absconded, interfered with the proceedings, attempted to influence the witnesses or otherwise evaded the process of law. Furthermore, all the legal heirs of the deceased, including the complainant, have appeared before the learned Trial Court and expressed their forgiveness of the petitioner in the name of Allah Almighty and their no-objection to the grant of bail and his ultimate acquittal. While the legal effect of such

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forgiveness or compromise upon the substantive proceedings is a matter to be determined by the competent Court strictly in accordance with law, the said circumstance is nevertheless relevant for determining whether a financially prohibitive condition was necessary to secure the petitioner's attendance.

16. I am conscious that the learned Trial Court possesses the jurisdiction to require the accused to furnish a bail bond and, where permissible, surety for securing his attendance. However, such jurisdiction must be exercised consistently with Section 498 Cr.P.C. and the law declared by the Hon'ble Supreme Court. The power to impose a condition cannot be construed as a power to impose any condition whatsoever. The condition must remain reasonable, proportionate and sufficiently connected with the legitimate purpose of bail.

17. In **Salman Khan v. The State (2022 SCMR 515)**, the Hon'ble Supreme Court held that an offence under Section 322 PPC does not fall within the prohibitory clause of Section 497(1) Cr.P.C. While the said proposition does not, by itself, determine the present controversy, it is nevertheless relevant in appreciating the nature of the offence for purposes of bail. The mere fact that the offence involves a fatal road accident and carries consequences under the law relating to Diyat cannot justify imposing a condition which is otherwise excessive and contrary to the statutory mandate of Section 498 Cr.P.C.

18. The condition imposed in the present case is rendered still more onerous by the stipulation that failure to comply within three days would result in automatic vacation of the bail. Once the petitioner

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had been judicially found entitled to pre-arrest bail, the imposition of a condition which he was, on the material before the Court, financially incapable of fulfilling had the practical effect of nullifying that judicial determination. The consequence prescribed by the learned Trial Court thus transformed an otherwise favourable bail order into one dependent upon the petitioner's ability to satisfy an excessive financial requirement.

19. The law does not permit the liberty of an accused, once judicially protected through an order of bail, to be made illusory by imposing a condition which is disproportionate to the legitimate object sought to be achieved. As held in Saeed Zaman and Javed Iqbal *(supra)*, the requirement of a bail bond is not intended to secure payment of a disputed or consequential monetary liability but to ensure the presence of the accused before the Court. The condition imposed in the present case, being equivalent to the entire Diyat amount, travels beyond that legitimate purpose.

20. This Court, thus finds that while the learned Trial Court was competent to require the petitioner to furnish bail bonds and surety as a condition for confirmation of his pre-arrest bail, the requirement of payment/deposit or furnishing of security equivalent to the entire Diyat amount is excessive and disproportionate within the meaning of Section 498 Cr.P.C. The condition, particularly when coupled with the stipulation of automatic vacation of bail upon failure to comply within three days, has the effect of defeating the very concession of bail granted to the petitioner and, therefore, calls for interference.

21. In sequel to what has been discussed above, this Court is unable to sustain the condition imposed by the learned Trial Court.

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Consequently, the instant petition is **allowed**, and the impugned order dated 12.01.2026, whereby the petitioner was required to furnish surety equivalent to the amount of Diyat within three days, failing which his pre-arrest bail would stand vacated, is hereby **modified** in that the petitioner shall furnish bail bonds/cash surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only), with one surety in the like amount to the satisfaction of the learned Trial Court.

(INAAM AMEEN MINHAS)
JUDGE

Announced in an open Court on 10.09.2026.

JUDGE

*Sanaullah***

Approved for reporting

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