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

Criminal Misc. No.1220-B of 2026

Asad Nadeem Kiyani

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.
	09.09.2026	**M/s Wasim Sajjad Zafar and Malik Nasir Abbas, Advocates for petitioner.** **Barrister Hanan, State Counsel.** **Khawaja Shahid Rasool, Advocate for the Complainant.** **Mr. Mohammad Sadiq, S.I/I.O.**

Umair Majeed Malik, J.-: Through the instant criminal miscellaneous petition, the petitioner seeks post-arrest bail in case FIR No. 18/2016, dated 20.01.2016, registered under sections 420, 468 and 471 P.P.C, at Police Station Margalla, Islamabad.

2. Precisely, as per the FIR, allegations against the petitioner are that on the complaint of the respondent No.2 (i.e. the complainant), FIR No. 09/2014 dated 14.01.2002 under Section 406 PPC was registered against the petitioner and during the pendency of the bail petition of the said FIR, the petitioner produced *Iqrar Nama* No.12854 dated 05.04.2005, and he was granted bail on the

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basis of it. Subsequently, when the complainant got hold of the original and compared it with a copy of the said *Iqrar Nama*, the *Iqrar Nama* was found forged and fabricated.

3. The petitioner was earlier granted post arrest bail in the instant FIR by the learned Additional Sessions Judge, Islamabad-West, vide order dated 23.08.2016. After submission of Challan in the trial court, the charge was framed on 02.11.2016. No evidence was recorded in the trial for almost 03 years after the registration of FIR. On 22.05.2019, the petitioner absented himself from the trial proceedings which resulted in the initiation of proceedings under section 87 of Cr.P.C. Ultimately, on 02.12.2019, the petitioner was declared proclaimed offender and his post arrest bail was cancelled. The petitioner remained at large for about six (06) years and on 29.05.2026, the petitioner surrendered to the local police, who produced him before the trial court. The petitioner filed post arrest petition before the learned Judicial Magistrate, 1st Class, Islamabad-West, who dismissed the same vide order dated 01.07.2026 and then he filed post arrest bail petition before the learned Sessions Judge, Islamabad, which was

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assigned to the learned Additional Sessions Judge, Islamabad-West who also dismissed the post arrest bail petition vide order dated 21.07.2026. Hence, the instant petition.

4. Learned counsel for the petitioner, *inter alia*, contended that *Iqrar Nama* No.12854 dated 05.04.2005 was executed between the petitioner and one Muhammad Hafeez regarding the purchase of land and the complainant had no concern with it. Learned counsel further contended that the petitioner and the complainant entered into an agreement dated 19.09.2005 for purchase of 45 Kanal of land, whereunder the petitioner transferred 40 Kanal land in favor of the complainant vide Mutation No.20263 dated 16.03.2006. He added that the petitioner handed over 40 Kanals of land, whereas the complainant forcibly occupied the remaining land and compelled the petitioner to transfer the same, while an amount of Rs.1,500,000/- remains outstanding. Learned counsel further submitted that after the statement of the stamp vendor, the Forensic Report dated 28.12.2015, and the statement of the concerned Tehsildar, the genuineness of the disputed *Iqrar Nama* is confirmed. Learned counsel

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for the petitioner further contended that the petitioner is innocent as he has not committed any offence under section 420, 468 and 471 of PPC, and the case against the petitioner is a case of further inquiry. Lastly, learned counsel for the petitioner contended that the petitioner was earlier granted post arrest bail in the instant FIR by the learned Additional Sessions Judge, Islamabad-West on merits but now the petitioner has been denied concession of post arrest bail by both the *fora* below merely on the grounds of absconsion of the petitioner. Learned counsel for the petitioner contended that the concession of post arrest bail could not be denied to the petitioner merely on the ground of his absconsion.

5. Conversely, learned counsel for the complainant vehemently opposed the petition and contended that the petitioner absconded during the trial proceedings and was declared proclaimed absconder by the trial court. Learned counsel for the complainant further argued that multiple criminal cases of similar nature are registered and pending against the petitioner. Learned counsel for the complainant argued that the petitioner is not entitled to the concession of post arrest bail, in the

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circumstances, as his case falls within the exception of case ***Tariq Bashir v. The State (PLD 1995 SC 34)***. He lastly contended that the material collected during investigation, *prima facie,* connects the petitioner with the commission of the alleged offences; hence, no case for the grant of post-arrest bail is made out.

6. Learned State Counsel vehemently opposed the instant bail petition and contended that the sufficient material is available on the record connecting the petitioner with the commission of alleged offence. He further argued that the petitioner remained absconder for a long period without any explanation and there are multiple FIRs against the petitioner. He argued that the petitioner is not entitled to post arrest bail.

7. Arguments heard. Record perused.

8. Cursory perusal of record reveals that the petitioner was earlier granted post arrest bail in the instant FIR by the Additional Sessions Judge, Islamabad, on merits, vide order dated 23.08.2016. In the instant case, the allegation against the petitioner is that the petitioner has committed offences under section 420, 468 and 471, P.P.C.

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The offences, under section 420 and 471 P.P.C, are bailable offences and therefore, the petitioner is entitled to grant of post arrest for the said offences as a matter of right under section 497, Cr.P.C. Reliance is placed on ***Alam Zeb v. The State (PLD 2014 SC 760)***. The offence under section 468 P.P.C. is a non-bailable offence, which is punishable with punishment of upto seven (07), and therefore the same does not fall within the prohibitory clause of section 497 (1), Cr.P.C. In view of dictum laid down in ***Tariq Bashir v. The State (PLD 1995 SC 54)***, in non-bailable offences falling in second category i.e. punishable with imprisonment of less than ten years, the grant of bail is a rule and the refusal is an exception. No exceptional circumstances have been pointed by learned counsels for the complainant and the State.

9. In so far as the arguments of learned counsel for the complainant and the State Counsel that the petitioner is not entitled to concession of post arrest bail on account of his absconsion, it is settled law that mere absconsion is no ground for refusal of bail to an accused if otherwise he has got a good case for bail. Reliance is placed on

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Mitho Pitafi v. The State ***(2009 SCMR 299),*** ***Muhammad Tanveer v. The State*** ***(PLD 2017 SC 733),*** ***Muhammad Ramzan v. The State*** ***(1986 SCMR 1380)***. In the instant case, after grant of post arrest bail, the petitioner kept on appearing before the learned trial court for almost three years from 23.08.2016 till his absconsion on 22.05.2019, and during this period, the challan was submitted in the trial court and even the charge was framed. Later, the petitioner absconded and he was declared proclaimed offender. However, then, he voluntarily surrendered himself on 29.05.2026, and putting himself completely upon mercy of the Court. The petitioner has, therefore, demonstrated his full confidence in the administration of Criminal Justice System and shown his readiness to face the trial. In the somewhat identical cases, the High Court of Sindh in ***Qadeer Hussain Shah v. The State*** ***(2025 P.Cr.L.J 98)*** and this Court in ***Hassan Ali Raja v. The State*** ***(2020 P.Cr.L.J 931)*** granted bail to the accused who voluntarily surrendered. Furthermore, in the circumstances, the exception of ***Tariq Bashir case*** *supra* is not attracted. Thus, he is entitled to concession of extra ordinary relief.

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10. As far as the arguments of learned counsels for the complainant and the state that the other cases of similar nature have been registered against the petitioner is concerned, it is trite law that mere registration of other criminal cases against an accused does not disentitle him for the grant of bail if on merits he has a *prima facie* good case. Reliance is placed on ***Moundar and others vs the State*** **(PLD 1990 SC 934)**, ***Muhammad Rafique vs The State*** **(1997 SCMR 412)**, ***Syeda Sumera Andaleeb v. The State,*** **etc.** **(2021 SCMR 1227)**, ***Nazir Ahmad alias Bhaga vs The State*** **(2022 SCMR 1467)** and ***Ali Anwar Paracha vs the State and another*** **(2024 SCMR 1596)**.

11. The entire case of prosecution is based on the alleged forged agreement. The genuineness of the agreement will be determined at the trial after recording of evidence. The forensic report of alleged forged agreement has also come negative, and the veracity of the said report will also be determined during the trial. The instant case is, therefore, a case calling for further inquiry into the guilt of the accused. Thus, the petitioner is entitled to grant of post arrest bail on merits as well.

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12. In the instant case, the investigation is complete and challan has been submitted. Even, the charge has been framed. It is trite law that every person/accused of any crime is considered innocent till proven guilty by court of law. No useful purpose would, therefore, be served for keeping the petitioner behind bar till conclusion of trial.

13. For the reasons recorded hereinabove, the instant bail petition is **allowed** and the petitioner is admitted to post-arrest bail, subject to his furnishing bail bonds in the sum of Rs.500,000/- with two local sureties in the like amount to the satisfaction of the learned trial Court.

14. Needless to mention that the observations made herein above are tentative in nature, which shall have no bearing effect on the merits of the case and the trial court would, thus, be free to decide the case on the basis of evidence adduced at the trial.

(UMAIR MAJEED MALIK)
JUDGE

M.A. Raza

Approved for reporting.

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