

HCJD/C-121
ORDER SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

CRL. MISC. NO. 880-B of 2020.

Waqas Nawaz, etc.
VERSUS
The State, etc.

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
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11.08.2020. Mr Jawad Hussain Aadil, Advocate alongwith the petitioners.
Raja Yasir Shakeel, Advocate for the complainant.
Ms Kalsoom Rafiq, State Counsel.
Mr Sarfraz, S.P. Investigations.
Mr Khalid Awan, DSP.
Mr Akram, ASI with record.

The petitioners namely, Waqas Nawaz and Ehtisham Nawaz sons of Muhammad Nawaz have sought pre-arrest bail in case, F.I.R. No. 286, dated 28.05.2020, registered under sections 324/337-D(C)/337-F(i) of Pakistan Penal Code, 1860 (hereinafter referred to as "**PPC**") at Police Station Golra Sharif, Islamabad.

2. Brief facts as narrated in the FIR are that on 28.05.2020, the accused persons while armed injured the complainant's son namely, Junaid. Hence the instant FIR.

3. The learned counsel for the petitioners has contended that; the case against the petitioners is false, frivolous and vexatious; the instant case has been registered against the petitioners with malafide intention and ulterior motives; no incriminating material was recovered

from them; the petitioners have no concern whatsoever with the alleged occurrence; the petitioners have no criminal record; the petitioners are teenagers; there is no chance of abscondance of the petitioners or tampering with the prosecution evidence; story as narrated in the FIR is concocted; the petitioners are innocent and has not committed the alleged offences; the petitioners have been falsely involved in the instant case to humiliate and harass them; offences do not fall within the ambit of prohibitory clause; the petitioners are ready to join investigations; ingredients of alleged offences are not fulfilled. The learned counsel has prayed for confirmation of the pre-arrest bail already extended to the petitioners vide order, dated 30.07.2020.

4. The learned State Counsel assisted by the learned counsel for the complainant appeared alongwith Sarfraz, S.P. Investigations, Khalid Awan, DSP and Akram, ASI. They have opposed the confirmation of pre-arrest bail. It has been argued that; the offences are cognizable in nature; the petitioners did not appear before the learned Additional Sessions Judge, Islamabad at the time of announcement of their pre-arrest bail petition; the petitioners are nominated in the FIR with specific role; no malafide has been pointed out by the petitioners against the complainant, so as to make out a case for the grant of pre-arrest bail; they have committed a heinous offence; hence prayed for the dismissal of the pre-arrest bail.

5. The learned counsels for the parties have been heard and record perused with their able assistance.

6. Perusal of record shows that the petitioners are nominated in the FIR and specific roles have been attributed to them. Offences under section 324 and 337-D PPC fall within the ambit of prohibitory clause. The recovery is yet to be affected from the petitioners. There is sufficient incriminating material brought on record to refuse confirmation of the instant bail. It is settled law that principles governing 'pre-arrest bail' are different from that of 'post-arrest bail'. Deeper appreciation of available record/evidence is not permissible at this stage. Moreover, the ingredients of pre-arrest bail are distinguishable than those of post arrest bail. Nothing has been placed on record to show that the case was an outcome of enmity or that the criminal case has been registered to merely humiliate the petitioners. The petitioners have not been able to make out a case in their favour within the parameters laid down for the purposes of granting pre-arrest bail. Moreover, there is no evidence on record to show that the police or the complainant has registered the case due to malafide or malice. This Court is guided by the law laid down by the august Supreme Court in the cases of "*Murad Khan versus Fazal-e-Subhan and another*" [PLD 1983 Supreme Court 82], "*Meeran Bux versus The State and another*" [PLD 1989 Supreme Court 347] and "*Ajmal Khan versus Liaqat Hayat and another*" [PLD 1998 Supreme Court 97].

7. In the circumstances this Court is of the opinion that the petitioners are not entitled to the grant of anticipatory bail at this stage and consequently the ad-interim pre-arrest bail granted in favour of the petitioners is ***recalled / dismissed.***