

**ORDER SHEET.**

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

**Criminal Misc. No. 535/B/2019.**

Asad Irshad

*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.
	28.10.2019.	Mr. Basharat Ullah Khan, Advocate alongwith petitioner. Barrister Ayesha Siddique Khan, State Counsel. Mr. Muhammad Naseer Awan, Advocate for complainant/ respondent No.2. Tanveer Mustafa, SP (Investigation), Islamabad. Azhar Hussain Shah, DSP (Legal). Abdul Waheed, S.I. P.S. Lohi Bher, Islamabad.

Through this Crl. Misc., petitioner has prayed for pre-arrest bail in case FIR No.101, dated 27.03.2019, U/S 506(ii), 511, 447, 427 PPC, P.S. Lohi Bher, Islamabad.

2. Brief facts referred in the instant case FIR got lodged by complainant/respondent No.2, Tabassum Taj are that he is general attorney of Muhammad Ashraf, Anis ul Hassan, Mst. Kulsoom Begum, Shahzad Aslam and Ch. Shabbir Ahmed, whereas Muhammad Ashraf and others have purchased 06 plots No.6, 7, 8, 96, 97, 98, Madina Town, Lohi Bher, Islamabad from Asif Irshad Satti and possession was delivered by said Asif Irshad Satti after sanction of mutation who have received entire sale consideration, construction has been raised on plots No.96, 97 & 98, whereas Asif Irshad Satti, Asad Irshad

Satti, Mst. Asma Suleman alongwith 4/5 goon elements interfered the construction on the said plots. Civil suit is also pending and restraining order is in field, however, Asad Irshad Satti armed with .30 bore pistol alongwith other 4/5 unknown armed personal entered in plot No.96 and demolished constructed room and also demolished walls of plot No.97 & 98 and extended life threats to the labourers.

3. Learned counsel for the petitioner contends that petitioner is innocent and has falsely been implicated in this case; that petitioner has nothing to do with the claim of complainant as plot No.96, 97 & 98 are not in existence in the society, although some plots were sold out by his brother Asif Irshad Satti; that respondent/complainant under the garb of instant FIR tried to take over the plots of the petitioner's society.

4. Conversely, learned State Counsel as well as learned counsel for complainant/respondent No.2 contends that petitioner has extended life threats on gun point despite the fact that petitioner and his brother received entire sale consideration and transferred the plots in the name of respondent with possession.

5. Arguments heard, record perused.

6. The tentative assessment of record reveals that petitioner has been nominated as accused in case FIR No.101, dated 27.03.2019, U/S 506(ii), 511, 447, 427 PPC, P.S. Lohi Bher, Islamabad, lodged on the complaint of

respondent No.2 that petitioner entered in plots No.96, 97 & 98 Madina Town and demolished one constructed room as well as walls of the plots in question. It has also been argued that petitioner has extended life threats during the course of arguments of instant bail petition, however, direction was issued to SP (Circle), Islamabad vide order dated 11.10.2019, who after attending the entire matter visited the place of occurrence, recorded statement of witnesses and prepared a report which *prima-facie* discloses the involvement of petitioner.

7. I have gone through the entire record as well as arguments and grounds raised by the petitioner's side, however, it is not the case where petitioner has been involved with any malafide rather his presence on spot was acknowledged in the investigation and even demolishing of walls and rooms was also proved in the investigation. Witnesses who have recorded their statements U/S 161 Cr.P.C. also alleged specific role to the petitioner and as such at this stage, case of further inquiry or malafide is not visible, therefore, at this stage by extending benefit of pre-arrest bail would amount to preclude the investigation agency from further investigation of the case who requires the presence of petitioner during the process of investigation. Even recovery of weapon is yet to be effected.

8. Keeping in view the above background, petitioner has failed to demonstrate his case on the touch stone settled by the superior courts in case

reported as 2016 YLR 439 Lahore (Shahzad Asghar Gondal Vs. State), that granting pre-arrest bail to the petitioner would amount to hamper the investigation of the case.

9. In view of above, petitioner is not entitled for the concession of pre-arrest bail, therefore, instant pre-arrest bail application is hereby dismissed and ad interim pre-arrest bail granted to the petitioner vide order dated 22.08.2019 is hereby recalled.

(MOHSIN AKHTAR KAYANI)  
JUDGE

Zahid