

ORDER SHEET
ISLAMABAD HIGH COURT
ISLAMABAD

Crl.Misc.No.526-B/2019

Faisal Ashraf alias Azan

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.
	20.8.2019.	Syed Asad Abbas Kazmi, Advocate for petitioner. Petitioner in person. Ch.Ibrar Hussain, Advocate for complainant. Ms.Saima Naqvi, State Counsel. Mr.M.Hanif Sajid, ASI.

Through this Criminal Miscellaneous application, the
Petitioner has prayed for pre-arrest bail in Case FIR No.213 dated
18.5.2019 under Section 324/34 PPC registered at Police Station
Golra Sharif, Islamabad.

2. The brief facts referred in the FIR alleged by the
complainant Fakhar Abbas are that he is permanent resident of
district Jhang and working in a tailor shop in F-10 Markaz,
Islamabad and owns Honda motorcycle 125, registration
No.101/ANL. On 16.5.2019 there was some altercation with
Naveed Ashraf Azan, Ashraf alias Faisal and Javed Majeed Butt.
On 17.5.2019 when the complainant was going from Golra Sharif
to Sector E-11 three persons namely Azan Ashraf alias Faisal,
Naveed Ashraf and Javed Majeed Butt came there on motorcycle
and Azan Ashraf alias Faisal fired with his 30 bore pistol which
landed on the right knee of the complainant and after firing
accused fled away while leaving their motorcycle No.RIX-9141 at
the spot.

3. Learned counsel for the petitioner contends that petitioner
has been nominated in this case with malafide and as such he has
not committed any offence. He further contends that there is no
direct evidence against the petitioner and other co-accused have
been granted pre-arrest bail by the court of Additional Sessions

Judge, Islamabad and principle of consistency is also applicable in this case.

4. Conversely learned counsel for the complainant assisted by learned State Counsel contend that petitioner is nominated in the FIR with specific allegation of causing fire arm injury to the complainant and is not entitled for concession of bail as no malafide or enmity has been argued in this case.

5. Arguments heard. Record perused.

6. From the perusal of record it transpires that petitioner is nominated in the FIR with specific role of causing fire arm injury on the right knee of the complainant with his 30 bore pistol. The tentative assessment of the record prima-facie connect the accused/petitioner with the crime and as such grant of pre-arrest bail at this stage to the accused/petitioner means that accused is exempted from joining the investigation and by not joining the investigation, prosecution case may suffer for want of recovery of incriminating articles and other material as such investigation of the case would hamper. The Court has to keep in view all these factors in order to maintain balance between both parties and would be cautious not to give undue advantage to one party over the other at the stage of investigation. Reliance is placed on case law titled **Sarwar Sultan Vs The State and another (PLD 1994 Supreme Court 133)**. No malice or ill will on the part of complainant or police has been surfaced against the petitioner.

7. Keeping in view of above, petitioner is not entitled for any discretionary relief, therefore, instant Criminal Miscellaneous application is dismissed and ad-interim pre-arrest bail already granted to the petitioner vide order dated 09.08.2019 is hereby recalled.

(MOHSEN AKHTAR KAYANI)
JUDGE