

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

Crl. Misc. No.509-B/2019
Muzaffar Mirza
versus
The State & another

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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30.08.2019	Malik Muhammad Ashfaq, Advocate along with petitioner. Malik Ehsan-ul-Haq Awan, Advocate for complainant. Barrister Ayesha Siddique Khan, State Counsel. Hakim Niazi, Inspector., P.S. Shams Colony, Islamabad.
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MOHSIN AKHTAR KAYANI, J: Through the instant bail application, the petitioner has prayed for pre-arrest bail in case FIR No.85, dated 13.07.2019, under Section 506, 511, 452, 447, 147, 149 PPC, P.S. Shams Colony, Islamabad.

2. Brief facts referred in the FIR lodged on the complaint filed by Muhammad Rafiq/respondent No.2 are that he is presently serving as JCO in PAF and on 11.09.2016, he purchased a 06 Marla plot with possession situated in Nothia Gulrez Madina, Phase-IV against sale consideration of Rs.2,300,000/- from Saqib Mehmood through a registered sale deed and has raised 08 feet high walls as well as installed a gate. On 25.05.2019, Muzzafar Mirza, Bilal, Shahzeb, Nasir Shah and others, duly armed with weapons and iron rods, entered into the said premises by force after breaking the gate and demolished the compound walls with intent to illegally take over possession of the said plot. As a result whereof,

complainant's wife called 15 Rescue Police and FIR has been lodged.

3. Learned counsel for petitioner contends that petitioner has falsely been implicated in this case as he was not involved in the alleged incident and the case has been registered with malafide intention; that petitioner is also owner of the land and matter in dispute is of civil nature; that all the offences are bailable except Section 452 PPC, which does not attract in the circumstances of the case.

4. Conversely, learned counsel for complainant as well as State Counsel contends that petitioner is a habitual criminal as 09 other FIRs have also been lodged against him in P.S. Ramna, Islamabad on similar charges of interference and possession as well as fraud qua the land and as such, he is a land grabber. Learned counsel for complainant further contends that the evidence collected by Investigation Officer in this case demonstrates that petitioner along with his co-accused persons demolished the walls and one of the accused namely Nasir Shah is still absconder in this matter.

5. Arguments heard, record perused.

6. Perusal of record reveals that petitioner is nominated accused in case FIR No.85, dated 13.07.2019, under Section 506(ii), 511, 452, 447, 147, 149 PPC, P.S. Shams Colony, Islamabad and has been charged with offence of trespassing into a 06 marla plot owned by complainant. The tentative assessment of record reveals that petitioner along-with 04 others, armed with weapons and iron rods, demolished the compound walls of plot and broken the gate by use of force and tried to grab the land in question.

7. As per record placed before this Court, 09 other cases of similar nature are registered against petitioner in P.S. Ramna, Islamabad. The petitioner has failed to demonstrate the malafide intention on the part of complainant and police, even no question of further inquiry has been brought on record and as such, the petitioner is directly charged with the offence of house trespassing by putting the complainant and his family members in fear, whereas no case of malafide is visible at this stage.

8. In view of above circumstances, the instant pre-arrest bail application is DISMISSED. The interim pre-arrest bail granted to petitioner vide order dated 02.08.2019 is hereby RECALLED.

(MOHSIN AKHTAR KAYANI)
JUDGE

Khalid Z.