

HCJD/C-121
ORDER SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

Crl. Misc. No. 275-B of 2019.

Muhammad Irfan

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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15.05.2019. Raja Muhammad Nadeem Kayani, Advocate for the petitioner.
Mirza Irfan Ghazanfar Advocate, for the complainant.
Mr Rabi Bin Tariq, State Counsel.
Mr Arshad Mehmood, S.I. with record.

The petitioner Muhammad Irfan son of Muhammad Ramzan has sought post arrest bail in case FIR No. 361, dated 06.09.2018, registered under sections 324, 148 and 149 of Pakistan Penal Code 1860 (hereinafter referred to as "**PPC**") at Police Station Bhara Kahu, Islamabad.

2. Brief facts as narrated in the FIR are that on 06.09.2018 at about 11:00 a.m., the petitioner alongwith other co-accused had fired indiscriminately outside the complainant's house. Earlier another criminal case was registered wherein the petitioner is one of the accused. Hence, the instant FIR.

3. The learned counsel for the petitioner has contended that; this is the second bail petition of the latter on the fresh ground that he

has been enlarged on bail in case FIR no. 312 of 2018, due to which his earlier bail petition in the instant case was dismissed; the petitioner has been maliciously involved in the instant case with malafide intention and connivance of the complainant; the petitioner has no concern with the alleged offences; the offences are not attracted against the petitioner; the post arrest bail petitions of the petitioner were dismissed by the learned Judicial Magistrate as well as by the learned Additional Sessions Judge, Islamabad; there is no direct or indirect evidence against the petitioner; the case of the petitioner falls within the ambit of further probe; no incriminating material was recovered from the petitioner; the petitioner is innocent; investigations qua the petitioner have been completed and he is no more required for the purposes thereof; further incarceration of the petitioner will not serve any useful purpose; the petitioner has been incarcerated for more than six months; report under section 173 of Cr.P.C. has been submitted before the learned trial Court; the petitioner has not been ascribed specific role and the story of the FIR is concocted; involvement of the petitioner is highly doubtful, therefore, it is the case of further inquiry; there is nothing on record which could connect the petitioner with the commission of the alleged offences; hence urges for the grant of bail.

4. The learned State Counsel assisted by the learned counsel for the complainant has appeared alongwith Arshad Mehmood, S.I. They have opposed the grant of bail. It has been alleged that; the petitioner is involved in the commission of the offences; he is also an accused in a case relating to murder of the complainant's son; empties were recovered from the place of occurrence; there is previous enmity between the parties and the alleged attack was intended to tamper with evidence and

intimidate the complainant so as to pressurise her to enter into a compromise; the petitioner is a hardened and desperate criminal; earlier bail petition of petitioner was dismissed vide order, dated 08.01.2019 and there is no fresh ground available to the petitioner to be released him on bail; they have, therefore prayed for the dismissal of the instant petition.

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

6. Perusal of the record reveals that the earlier bail petition of the petitioner was dismissed on merits vide order, dated 08.01.2019. There is no fresh ground available to the petitioner to seek his post arrest bail, except that he was granted bail in case FIR no. 312 of 2018. It is settled law that each case has to be seen on its own merits. The allegation in the instant case pertains to misuse of concession of bail. The petitioner is alleged to have attempted to intimidate the complainant after obtaining the concession of bail. It cannot be ruled out that the petitioner may misuse the concession if released on bail. Investigations qua the petitioner have been completed. Report under section 173 of Cr.P.C. has been submitted before the learned trial Court. The trial of the case is in progress. There is sufficient incriminating material placed on record to refuse the concession of bail. Moreover, this second bail petition is not maintainable because getting bail in the other case cannot be treated as a fresh ground.

7. In the circumstances, a case for extending the concession of bail is not made out. The present petition is, therefore, accordingly, ***dismissed.***

Needless to mention that the observations recorded in the instant petition are based on tentative assessment, which will obviously not prejudice the proceedings before the learned trial Court.

(CHIEF JUSTICE)

*Asad K/**