

# ORDER SHEET

## **ISLAMABAD HIGH COURT, ISLAMABAD.**

Case No.

Cri.Misc.Bail.No.30-B/2011.

**Kabir Azad**

**Versus**

**The State**

S.No.of order/ Proceeding	Date of order/ Proceeding	Order with signatures of Judge, and that of parties or Counsel, where necessary.
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02.

17.01.2011

Raja Muhammad Shakil Abbasi, Advocate for the petitioner.

Mr. Shabbir Abbasi, learned Standing Counsel.

Alongwith Muhammad Riaz SI.

Heard arguments and perused the record.

The accused / petitioner seeks post arrest bail in case FIR No.84, dated 15.06.2003, offences under Sections 393 / 34 PPC, P.S Bahara Kahu, Islamabad on the grounds that there is no direct evidence against him and the offences do not fall within the prohibitory clause of Section 497 (1) Cr.P.C. It is argued that the <sup>accused</sup> case infact had never absconded but his none appearance was due to non-service of process. It is mentioned that he had never received any summon for his appearance. It is further submitted that the accused will be careful in future and would face the trial.

2. Learned Standing Counsel has strongly opposed the bail application by stating that he misuse the concession of bail, therefore, not entitled to any discretionary relief.

3. The learned Illaqa Judicial Magistrate had initially admitted him to bail, which was cancelled on his none appearance and thereafter on the ground of his abscondance, the bail was refused and on the same ground

learned Additional Sessions Judge, Islamabad also rejects his bail application on 04.01.2011.

4. I have heard the arguments and perused the record.

5. Admittedly, the applicant / accused had been admitted to bail<sup>on</sup> merits and thereafter due to his none appearance, he was declared absconder and was arrested on 03.12.2010. The superior Courts have repeatedly held that the bail cannot be with held as punishment and mere abscondance is no ground for refusal of bail if a sufficient cause is shown for none appearance. In the instant case, the accused has already suffered due to his none appearance and is behind the bars since 03.12.2010, therefore, in my view he is entitled for grant of bail. As such he is ordered to be released provided that he furnishes solvent surety in the sum of Rs.2,00,000/- and PR bond of like amount to the satisfaction of learned Trial Court.

(Muhammad Anwar Khan Kasi)  
Judge.

Mirza Aamer Baig.

Blue slip added  
19-1-11