

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

**Criminal Miscellaneous No. 192 of 2022**

**Aftab Anjum**  
Versus  
**THE STATE, ETC.**

<b>S. No. of order/ proceedings</b>	<b>Date of order/ proceedings</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
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<b>03.03.2022.</b>	<b>Mr. Khurram Shahzad Janjua, Advocate for Petitioner. Rana Imran Farooq, AAG. Mr. Tariq Hussain, Inspector, F.I.A.</b>
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Through the instant petition, the Petitioner (Aftab Anjum) is seeking post-arrest bail in the case of FIR No.05/2022 dated 02.02.2022 for the offences under Sections 109/409/420, PPC read with Section 5(2) PCA, 1947 registered with Police Station FIA Corporate Crime Circle, Islamabad.

2. Brief facts, as per FIR, are that consequent upon enquiry, it has transpired that the allotment of Commercial plot No. CP-3B (measuring 95 Sq.Yards) Mehran Road Block B Soan Garden Housing Scheme (Zone-V) Islamabad was illegally made without auction from the land allocated for green area/amenities as per approved LOP and building plan of the society vide letter Ref. No. CECHS/Com/807 dated

18.10.2016, duly signed by Ch. Yasir Arafat Mehdi the then Secretary Civilian Employees Cooperative Housing Society (CECHS), Islamabad and possession letter Ref. No. CECHS/Com/807 dated 21.12.2016 for the same plot was illegally made with the signature of Ansar Mehmood Gondal the then President of the Society (CECHS Islamabad along with the signature of the then Site Engineer (Sub Engineer) Aftab Anjum of Society (CECHS) Islamabad in favour of Mr. Adil Hussain. Record of the Society reveals that above mentioned president/Secretary and Sub Engineer falls under the management committee for the period 2015-18 and abovementioned plot was allotted in the year 2016 as no cost of land/no development charges have been deposited in the Society account. Thus the Petitioner along with the other co-accused willfully, illegally, dishonestly created/allotted the above mentioned plot for commercial purpose, which was allocated for green area/amenities and handed over the possession of the same to the allottee by misusing their authority for their personal wrongful gain and committed prima facie offence of fraud criminal breach of trust and

misuse of authority for personal wrongful gain, hence this FIR.

3. Learned counsel for the Petitioner contended that the allegations against the Petitioner are false and fabricated and nothing is available on record to suggest that Petitioner was involved in the allotment of the land; that there is an inordinate delay of about six years in registration of FIR; that the Petitioner is behind bars since his arrest i.e 03.02.2022; alleged offences do not fall within the ambit of prohibitory clause of Section 497, Cr.P.C; Learned counsel for the Petitioner has relied upon the cases titled *Ch. Muhammad Arshad and 4 others Vs. SHO Police Station FIA/SIU Islamabad and 4 others*, PLJ 2006 Lahore 158. Learned counsel for the Petitioner has further submitted that the Petitioner is ready to furnish sufficient surety to the satisfaction of the Court, therefore, may be released on bail.

4. Conversely, the learned Assistant Attorney General and the Investigating Officer have strongly opposed this bail petition and submitted that the Petitioner is specifically nominated in the FIR and the same has been lodged after a complete inquiry; that there is sufficient evidence available on record to

connect the Petitioner with the commission of offence; that the offence would not have been possible had the Petitioner, being Site Engineer mentioned that the plot was amenity plot; that there are two more FIRs of the same nature against the Petitioner; that there is strong apprehension of absconding by the Petitioner as the co-accused been declared absconder, therefore, requested for dismissal of the instant bail petition.

5. Arguments heard. Record perused.

6. There is an unexplained delay of six years from date of occurrence till registration of FIR. The alleged offences are non-bailable and the offence under Section 409, PPC is punishable with imprisonment for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. As such falls within the prohibitory clause of Section 497, Cr.P.C. Perusal of the record shows that the Petitioner is specifically named in the F.I.R, however no specific role has been ascribed to him which led to the commission of the alleged offences. In fact only co-accused Ch. Yasir Arafat Mehdi and Ansar Mehmood Gondal are alleged to have

willfully, illegally, dishonestly created/allotted the above mentioned plot for commercial purpose, which was allocated for green area/amenities and handed over the possession of the same to the allottee whereas, the Petitioner only signed the possession letter. As such, the alleged guilt of the Petitioner is a case of further inquiry as envisaged in sub-section (2) of Section 497, Cr.P.C.

7. Time and time again the apex Court has held that the object of bail is neither punitive nor preventive as punishment begins after conviction not before. Therefore, if a person is wrongly released on bail then such wrong can be repaired by incarceration after conclusion of trial but incarceration during trial found wrongful upon conclusion of trial causes irreparable harm.

9. The upshot of the above discussion is that I am persuaded to grant bail in this case. Consequently, the instant bail application is **allowed** and the Petitioner is admitted to bail subject to furnishing bail bond in the sum of Rs. 100,000/- (Rupees one hundred thousand) along with local

surety in the like amount to the satisfaction of the learned Trial Court.

10. It is made clear that if the concession of bail is misused by the Petitioner or any delay in conclusion of trial is caused by him or anyone else acting on his behalf, the Trial Court shall be competent to recall the bail granted, after hearing the parties, strictly in accordance with the law.

11. Needless to mention that the above observations are tentative in nature, which shall in no way prejudice the learned trial court.

**(SAMAN RAFAT IMTIAZ)**  
**JUDGE**

Sherazi.