

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

Criminal Misc. No. 961-B/2020  
Syed Alamdar Hussain Shah, etc.  
Versus  
The State, etc.

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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16.09.2020	M/s Afzal Tahir and Aamir Abbas Malik, Advocates for petitioners. Mr. Saqlain Haider Awan, learned AAG for respondent No.1, Raja Muhammad Tariq Khan, Advocate for respondent No.2, Mr. Qaiser Masood, Additional director (Law) FIA HQ and Inspector Nadeem Abbasi I.O. Police Station FIA/CBC, Islamabad with record.
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**FIAZ AHMAD ANJUM JANDRAN, J.** Through the instant Criminal Misc., petitioners (*Syed Alamdar Hussain Shah and Sarfraz Ahmad*) have applied for post-arrest bail in F.I.R No.07, dated 23.06.2020, under Sections 420, 468, 471 & 109 PPC, Police Station FIA/CBC, Islamabad..

2. Briefly, the allegations set forth in the F.I.R lodged by respondent No.2 are that the petitioners being bank officials, serving at Askari Bank Limited and Silk Bank Limited, F-7, Branches Islamabad, issued fake/bogus bank guarantees worth Rs.25 Million and Rs.10 Million respectively of N.B.P. Corporate Branch No.12, Gulbarg-II, Lahore and extorted Rs.700,000/-.

3. Learned counsel for the petitioners contends that the offences do not fall within the ambit of prohibitory clause of Section 497 Cr.P.C; that the petitioners are behind the bars since their arrest on 18.08.2020; that the alleged extorted amount of Rs.700,000/- has been recovered from them; that they are no more required for further

investigation and that the purported cheques were not presented by the complainant, therefore, they are entitled to the concession of post arrest bail.

4. Conversely, learned counsel for the complainant contends that petitioners are specifically nominated; recovery of extorted amount was also effected from their possession and that the bank guarantees were declared forged by the N.B.P. Gulbarg-II, Lahore, therefore, petitioners are not entitled to the concession of bail. However, learned AAG conceded that neither the petitioners are required for further investigation nor they retain any criminal record.

5. Arguments heard, record perused.

6. The offences under Section 420 & 471 PPC are bailable while punishment provided for the offence under Section 468 PPC is up to 7 years which does not fall within the ambit of prohibitory clause of Section 497 of Cr. P.C.

7. The Hon'ble Supreme Court of Pakistan in a recent judgment reported as **"Muhammad Ramzan alias Jani V. The State and others" (2020 SCMR 717)** has laid down the principle by holding that when the alleged offence is outside the prohibitory clause of Section 497 Cr. PC, grant of bail is a rule and refusal is an exception.

8. Admittedly, the investigation in the case has been completed after the recovery of alleged extorted amount, while the petitioners are no more required for further investigation, therefore, their incarceration pending trial would serve no useful purpose. The Hon'ble Apex Court in case reported as **PLD 1972 SC 81** has graciously held that bail cannot be withheld as a punishment.

9. Moreover, the prosecution case is based on documents and in such like eventuality there is no possibility of tampering with the evidence. In like offences bail was granted by the Hon'ble Supreme Court of Pakistan in case reported as 1996 SCMR 1132 by holding that:-

"The objection of the learned counsel regarding addition of section 409 PPC may carry some weight while considering the bail application. As there is no possibility of tampering with the evidence, which is entirely documentary in nature and in possession of the prosecution." [Emphasis added]

10. In view of above, petitioners are held entitled to the concession of post arrest bail at this stage. Consequently, instant bail petition is allowed. The petitioners Syed Alamdar Hussain Shah and Sarfraz Ahmad are admitted to post arrest bail subject to furnishing bail bonds in the sum of Rs.100,000/- each with one surety each in the like amount to the satisfaction of the learned Trial Court.

11. Needless to mention that above is only tentative assessment for the purpose of instant bail petition and shall not effect/influence trial of the case in any manner.

(MOHSIN AKHTAR KAYANI)  
JUDGE

(FIAZ AHMAD ANJUM JANDRAN)  
JUDGE

Imran