

ORDER SHEET
In the Islamabad high Court,
Islamabad

JUDICIAL DEPARTMENT

Crl. Misc. No.03-B of 2022

Yasir Khan

VERSUS

The State & another.

Serial No. of order of proceedings	Date of order of proceedings	Order with signatures of judge, and that of parties of counsel, where necessary.
1	2	3

14.01.2022

Petitioner in person alongwith Mr. Zeeshan Riaz Cheema, Advocate for petitioner.
 Mr. Shahid Muhammad Mughal, Advocate for complainant.
 Mr. Zeeshan Babr, State counsel with Asif Ali S.I.

Through this petition, petitioner (*Yasir Khan*) has prayed for pre arrest bail in FIR No. 312, dated 18.06.2021, under section 489-F PPC, Police Station Lohi-Bher Islamabad.

2- After hearing arguments, file kept in wait for orders. While dictating the same, it reveals that petitioner availed remedy of pre arrest bail before the learned Court of 1st instance twice. As per police record, his first pre arrest bail application was dismissed as withdrawn on 29.07.2021. He then filed second pre arrest bail application which was dismissed on merits vide order dated 14.09.2021.

3- It is by now well settled principle that an accused can approach the same court with a fresh pre-arrest bail petition if the earlier one has been withdrawn without advancing arguments on merits, **the court must be watchful that the successive petition is not readily entertained or the concession of ad interim bail granted to the accused, unless he furnishes satisfactory explanation for withdrawal of the first petition and filing of the second one.**

4- It is obligatory for the accused to furnish satisfactory explanation for withdrawing the first pre-arrest bail petition at the time of entertaining the second pre-arrest bail petition. **Unless there is satisfactory explanation, the second bail petition should not be entertained,** because otherwise the accused would have an unchecked license to abuse the concession of ad interim pre-arrest bail by misusing the court-process, and hoodwink the Police to prolong the investigation. Therefore, while the accused has access to courts to seek pre-arrest bail, even successively for justifiable reasons, he cannot be permitted to abuse the concession of ad interim bail to stall the investigation and play hide and seek with the criminal justice system. In case the accused fails to give satisfactory explanation for his withdrawal of the earlier pre-arrest bail petition and the need for filing the fresh one, his second or successive pre-arrest bail petition shall not be maintainable. Reliance is placed upon Order **dated 13.08.2021 passed by the Hon'ble Supreme Court of Pakistan in Crl Misc No.39-B/2021) “ Inam Ullah v. The State” (PLD 2021 SC 892)**

5- It is important to note that there is no mention of dismissal of first pre arrest bail petition as withdrawn in the second order dated 14.09.2021. Even before this Court, the petitioner has not disclosed this fact either in the memo or certificate annexed therewith. Significantly, this aspect was also not disclosed during arguments, while, under the law, petitioner had to furnish satisfactory explanation for withdrawal of his earlier pre arrest bail and the need for filing the fresh one. The learned Court of 1st instance, should while dealing with second pre arrest bail petition take into account this aspect and it is the need of the time that special instructions be issued by the District & Sessions Judges requiring the petitioner(s) in such like matters to

disclose about the fate of first pre arrest bail petition and the reasons for withdrawing the same.

6- In view of above, instant pre arrest bail petition is not maintainable. It is thus accordingly **dismissed**. Ad interim pre arrest bail granted to the petitioner vide order dated 05.01.2022 is recalled.

7- The decisions of the Hon'ble Supreme Court of Pakistan to the extent it decides a question of law or enunciates a principle of law, is binding on all other courts of the country including the High Courts, under the mandate of Article 189 of the Constitution of the Islamic Republic of Pakistan 1973. Reliance is placed upon **order dated 09.11.2021**, passed by the Hon'ble Supreme Court of Pakistan in CPLAs No.1862-L & 1863-L of 2021, titled **Hasnain Raza & Nazia Ali v. Lahore High Court, Lahore & others.** Office is, therefore, directed to transmit copy of this order to the learned Member Inspection Team (MIT) for its circulations amongst the learned Presiding Officers of both the Sessions Divisions (East & West) of ICT for information and future guidance.

(ARBAB MUHAMMAD TAHIR)
JUDGE

Suhail

APPROVED FOR REPORTING