

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

Crl.Misc.No.316-B/2019  
Muhammad Abbasi  
**Versus**  
Qammer Zaman Abbasi and another

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	<b>30.05.2019</b>	<b>Raja Muhammad Shafqat Khan, Advocate for the petitioner Ch. Abdul Rehman Bajwa, Advocate for respondent No.1 Mr. Sadaqat Ali Jahangir, learned State Counsel with Athar, Inspector.</b>

Through the instant criminal miscellaneous application, the petitioner, Muhammad Abbasi, seeks bail after arrest in case F.I.R. No.62, dated 09.03.2019, under Sections 452, 506(ii), 511, 447, 427, 148 and 149 of the Pakistan Penal Code, 1860 ("P.P.C.") registered at Police Station Bani Gala, Islamabad.

2. Earlier the petitioner's pre-arrest bail petition was dismissed by the learned Additional Sessions Judge, Islamabad, vide order dated 27.04.2019. Subsequently, the petitioner's post-arrest bail petitions were also dismissed by the learned Courts below, vide orders dated 08.05.2019 and 16.05.2019. Thereafter, the petitioner filed the instant petition for post-arrest bail.

3. Learned counsel for the petitioner submitted that the petitioner has falsely been implicated in this case; that the petitioner and the complainant are cousins in relation; that the FIR in question is the result of counter-blast of FIR No.64, dated 22.03.2008, under Sections 302, 324, 109 and 34 P.P.C.; that in the said F.I.R., the petitioner's real brother and nephew were murdered in which the

complainant and his brother were nominated as the accused; that the complainant's brother namely, Ulfat Zaman Abbasi, and the petitioner were co-sharers of a land situated in Mouza Bani Gala; that the complainant and his brother sold their shares in said land; that subsequently, the complainant's brother repurchased one *kanal* and 19 *marlas*; that the petitioner time and again asked the complainant's brother to divide the land according to their shares, but the former instead of dividing the same grabbed the latter's share as revealed through the Tehsildar's report dated 25.03.2019; that the petitioner has been involved in this case on account of previous enmity between the parties; that bare perusal of the FIR reveals that ingredients of Section 452 (commission of house trespass) and Section 506(ii) PPC (criminal intimidation) are not spelt out, whereas the rest of the Sections vide which the petitioner has been charged are bailable; that the alleged occurrence was reported before the police after eight hours and FIR in question was registered after a period of one month; that there is a substantial delay in lodging the FIR in question; that the petitioner is entitled to the concession of bail as the co-accused having similar role were granted bail by the learned Court below. Learned counsel prayed for the petition to be allowed and for the petitioner to be released on bail.

4. On the other hand, learned counsel for the complainant, assisted by learned State Counsel, submitted that the petitioner is nominated in the FIR; that the role ascribed to the petitioner in the FIR was that on 10.02.2019 he (armed with rifle) along with his guards came to the complainant's

plot situated at Banni Gala and after aiming his rifle at the complainant extended him life threats and directed the said guards to demolish the walls of the complainant's house; that the petitioner is a member of *qabza mafia* and in order to forcibly dispossess the complainant from his house, he along with others co-accused came to the complainant's house; that the FIR in question was lodged on time and there is no delay in lodging the same; and that the petitioner is habitual offender and is also involved in thirteen other cases of similar nature. Learned counsel prayed for the bail petition to be dismissed.

5. I have heard the contentions of the learned counsel for the parties and perused the record with their able assistance.

6. Brief facts as stated in the FIR are that on 10.02.2019, when the complainant was present in his plot/house situated at main Bani Gala road adjacent to Farhan Heights, all of a sudden, the accused/petitioner came there along his guards, and he after aiming his rifle at the complainant, extended him life threats and directed the guards to demolish the walls of the complainant's house. In the meantime, people from the vicinity gathered and on seeing the gathering, the accused party left the place of occurrence. While leaving the place of occurrence the accused/petitioner again threatened the complainant that he would come again and demolish the walls with the help of a tractor. Meanwhile, the complainant informed the Rescue 15. After about half an hour, the accused/petitioner along with his son, nephews and two other unknown persons again came at the place of occurrence and once again started demolishing the walls of the house in question and

used abusive language. In the meantime, the police officials of Banni Gala came at the spot and stopped the accused party. Furthermore, it is reported that the accused/petitioner is a member of *qabza mafia* and is a habitual offender and a number of cases registered against him which were pending before the Courts.

7. Perusal of the record shows that the petitioner is specifically nominated in the FIR. The contents of the FIR show that the petitioner along with his son, nephews and two others forcibly entered into the complainant's house/plot, and the petitioner after aiming his rifle at the complainant, extended him life threats and started demolishing the walls of his house and tried to forcibly dispossess him. As per the FIR, the police officials came at the spot to rescue the complainant and with the intervention of police said demolition was stopped by the accused/petitioner. The recovery memo appended with the record shows that a rifle/gun 223 bore was recovered from the petitioner, which was used in the alleged occurrence. The record further shows that the petitioner is a habitual offender and is involved in many cases, including murder, attempt to murder, aerial firing, forcible possession of property etc. The details of the cases registered against the petitioner are as under:-

Sr. No.	Case No.	Dated	Offence under Section	Police Station
1.	46	25.06.92	353, 506, 148, 149, 324, 337 PPC	Bhara Kahu
2.	53	26.07.92	344, 353 and 506 PPC	-do-
3.	128	18.09.96	447, 147 and 149 PPC	-do-
4.	144	25.09.96	337-F(ii), 148 and 149 PPC	-do-
5.	102	23.06.09	379, 427, 147 and 149 PPC	-do-
6.	278	27.04.09	452, 324, 148 and 149	Gujar Khan

			PPC	
7.	106	21.05.04	506(ii), 341 and 34 PPC	Bhara Kahu
8.	183	23.06.04	324, 109, 427 and 34 PPC	-do-
9.	217	18.09.2000	447 and 34 PPC	-do-
10	20	28.01.10	406 PPC	-do-
11.	52	13.03.10	302 and 34 PPC	-do-
12.	111	25.07.17	337-H(ii) and 337-H(i) PPC	Bani Gala
13.	62	09.03.19	427, 452, 506(ii), 148 and 149 PPC	-do-

8. In my tentative assessment, the accused/petitioner is a main culprit who has the major role in the commission of alleged crime, i.e. house trespass, criminal intimidation, demolition of the complainant's house walls so as to forcibly dispossess him. Furthermore, the recovery of the weapon allegedly used in the occurrence also *prima-facie* connects the petitioner with the commission of alleged crime. Involvement of the petitioner in other cases of similar nature shows that he is, *prima-facie*, a habitual offender.

9. In this view of the matter, the petitioner is not entitled to the discretionary relief of post-arrest bail, which is accordingly dismissed.

**(MIANGUL HASSAN AURÁNGZEB)**  
**JUDGE**

Qamar Khan\*