

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Jamal Khan Mandokhail
Mrs. Justice Ayesha A. Malik
Mr. Justice Syed Hasan Azhar Rizvi

Crl.PLA No.458/2024 & 459/2024

[Against the order dated 08.05.2024 passed by the Lahore High Court, Lahore passed in Crl. Misc No 16559-B/2024 and Crl. Misc No.16616-B/2024)

Ahmad Nawaz

(in Crl.PLA No 458/2024)

Manzoor Hussain

(in Crl.PLA No 459/2024)

...Petitioner(s)

Versus

The State & another

...Respondent(s)

For the Petitioner(s)	: Malik Saleem Iqbal Awan, ASC Along with both petitioners present in court
For the State	: Mr. Irfan Zia, Additional Prosecutor General, Punjab Zafar Abbas, ASI Sajjad, DSP Chiniot
For the Complainant	: Sheikh Irfan Akram, ASC.
Date of Hearing	: 31.05.2024.

JUDGMENT

Syed Hasan Azhar Rizvi, J:- Through the present

petitions, the petitioners seek leave to appeal against the orders of Lahore High Court, Lahore, dated 08.05.2024, whereby the pre-arrest bail was declined to them in case arising from FIR No.1489 dated 14.12.2023 lodged under sections 420/468/471 PPC registered at the Police Station Bhowana, District Chiniot.

2. According to the gist of the aforesaid FIR lodged by Muhammad Sadiq (complainant), petitioners along with their co-accused, in order to deprive the complainant from his valuable property, obtained his signature on blank stamp papers on the pretext of preparing a lease deed in between the complainant and

petitioner Ahmad Nawaz. However, subsequently, by way of fraud and forgery the petitioner Ahmed Nawaz converted the said document into sale agreement in favor of the petitioner. A suit for possession for specific performance of contract was filed by the petitioner Ahmed Nawaz in the civil court, whereas another suit for the cancellation of documents was filed by the complainant. Hence, FIR as mentioned above was registered against the petitioners and their bail applications were dismissed by the Trial Court and High Court vide orders dated 11.03.2024 and 08.05.2024 respectively.

3. The learned counsel for the petitioners contends that the petitioners have been falsely implicated in the case with *mala fide* intention and ulterior motives. The Petitioners have purchased the subject land from the complainant against the sale consideration of Rs. 70,00,000/- per acre and the total sale consideration comes to Rs. 1,28,35,000/-. It was alleged that complainant after receipt of Rs. 90,35,000/- as earnest money from the petitioners delivered possession of land. It was further alleged that the rest of the amount i.e. Rs. 38,00,000/- was decided to be paid at the time of execution of the Sale deed. In the suit for possession filed by the petitioner Ahmed Nawaz injunction application was dismissed by the trial court however temporary injunction has been granted to petitioners by the Additional District Judge, Bhowana vide order dated 20.02.2024.

4. The learned counsel for the complainant and Additional Prosecutor General vehemently opposed the bail petition. They contend that the petitioners have committed fraud and forgery by obtaining signature of the complainant on blank stamp papers in order to deprive the complainant of his land.

Both the petitioners are named in FIR and assigned specific roles. Petitioner Manzoor Hussain drafted the forged and fictitious sale deed whereas petitioner Ahmad Nawaz is the beneficiary of the alleged sale agreement. They further contended that Petitioners have failed to produce any proof qua payment of the sale amount to the complainant. The complainant is the real maternal uncle of Petitioner Ahmed Nawaz and the said petitioner while taking undue advantage of the trust that an uncle reposed upon his nephew, converted the lease agreement into a sale agreement. Thus, they do not deserve any leniency in terms of bail.

5. We have heard learned counsel for the parties and have perused the material available on the record.

6. The allegations as set forth in the FIR are that the petitioners came on 08.12.2021 at 8:00 am to the complainant at his home and asked to come outside for an important matter. Eventually, petitioners convinced complainant that he should enter into a lease agreement and took him to sign the stamp papers. The complainant had trust in his nephew therefore he signed stamp papers and those were kept in the custody of his nephew namely Ahmed Nawaz. The complainant came to know about the execution of forged sale agreement on 24.07.2023 prepared by petitioners when he received the summon of the suit instituted by the petitioner Ahmed Nawaz for specific performance of the sale agreement.

7. In the present case, FIR has been lodged with a delay of approximately five months of alleged forgery and fabrication of documents and such delay has not been sufficiently explained by the learned counsel for the complainant. Secondly, the status quo

is in the field granted by the Additional District Judge, Bhowana. Therefore, the instant case falls within the parameter of further inquiry and allegations are to be decided by the learned trial court after recording evidence.

8. Liberty of a person is a precious right which has been guaranteed by the Constitution of Islamic Republic of Pakistan, 1973. By now it is also well settled that it is better to err in granting bail than to err in refusal because ultimate conviction and sentence can repair the wrong resulted by a mistaken relief of bail.

9. This court in the case of *Chairman NAB*,¹ has ruled as follows:

“To err in granting bail is better than to err in declining; for the ultimate conviction and sentence of a guilty person can repair the wrong caused by a mistaken relief of bail, but no satisfactory reparation can be offered to an innocent person on his acquittal for his unjustified imprisonment during the trial.”

In another case titled as *Muhammad Nawaz alias Karo*,² this court discussed the bail in the context of liberty of person and held as under:

“This court has time and again held that the liberty of the person is a precious right which cannot be taken away unless there are exceptional grounds to do so. Merely on the basis of the bald allegations, the liberty of person cannot be curtailed.”

10. For the above reasons, these petitions are converted into appeals and are allowed. The impugned orders of the High Court dated 08.05.2024 are set aside. The petitioners are admitted to bail subject to furnishing their bail bonds in the sum of Rs. 50,000/- (fifty thousand) each with one surety in the like amount to the satisfaction of the trial Court.

11. Before parting, it is reiterated that the observations made hereinabove are tentative in nature. The trial court is at

¹ PLD 2022 SC 475

² 2023 SCMR 734.

liberty to independently adjudicate the case on its own merits, without being influenced by the observations made hereinabove.

12. Above are the reasons of our short order of even date.

Judge

Judge

Judge

Islamabad,

31st May, 2024

APPROVED FOR REPORTING

*Paras Zafar, LC**