

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Manzoor Ahmad Malik
Mr. Justice Syed Mansoor Ali Shah
Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Petition No.446-L of 2016

*(Against the order dated 05.03.2002 passed
by the Lahore High Court, Lahore in CrI. Misc.
No.4722 of 2019).*

Rana Abdul Khaliq

...Petitioner(s)

VERSUS

The State, etc.

...Respondent(s)

For the Petitioner(s) : Qari Nadeem Ahmed Awaisi, ASC

Respondent No.2 : In person

For the State : Mr. Mazhar Sher Awan,
Additional Prosecutor General,
Punjab with Tariq Mehmood, S.I.

Date of Hearing : 13.05.2019

JUDGMENT

Qazi Muhammad Amin Ahmed, J.- Impugned herein is order dated 5.3.2019, whereby a learned Judge-in-Chamber of Lahore High Court admitted Muhammad Akram, respondent to bail in anticipation to his arrest; upon failure of a bank cheque issued by him towards re-payment of loan, he was required in a criminal case registered under Section 489-F of Pakistan Penal Code, 1860, The learned High Court confirmed *ad interim* bail on the ground that respondent did not '*misuse*' *ad interim* bail and that he was going to be released on post arrest bail if at all, remitted into custody. The learned Judge in order to substantiate his point of view, referred to the case of Khalil Ahmed Soomro and others versus The State (PLD 2017 SC 730).

2. Grant of pre-arrest bail is an extra ordinary remedy in criminal jurisdiction; it is diversion of usual course of law, arrest in cognizable cases; a protection to the innocent being hounded on trump up charges through abuse of process of law, therefore a petitioner seeking judicial protection is required to reasonably

demonstrate that intended arrest is calculated to humiliate him with taints of *mala fide*; it is not a substitute for post arrest bail in every run of the mill criminal case as it seriously hampers the course of investigation. Ever since the advent of Hidayat Ullah Khan's case (PLD 1949 Lahore 21), the principles of judicial protection are being faithfully adhered to till date, therefore, grant of pre-arrest bail essentially requires considerations of *mala fide*, ulterior motive or abuse of process of law, situations wherein Court must not hesitate to rescue innocent citizens; these considerations are conspicuously missing in the present case. The case referred to by the learned Judge-in-Chamber unambiguously re-affirms above judicial doctrine and thus reliance being most inapt is unfortunate to say the least.

3. The respondent is in attendance; despite notice and knowledge, he has not arranged representation, seemingly as a strategy to win time and this does not absolve this Court to decide this case posted for hearing, at public expense. Impugned order being in contravention of settled judicial principles cannot sustain. This petition is converted into appeal and allowed, the impugned order is set aside and the bail granted to the respondent is cancelled.

JUDGE

JUDGE

JUDGE

Lahore, the
13th of May, 2019
Ghulam Raza/*