

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Sardar Tariq Masood  
Mr. Justice Mazhar Alam Khan Miankhel  
Mr. Justice Qazi Muhammad Amin Ahmed

**Criminal Petition No.33 of 2021**

*(Against the judgment dated 11.01.2021 passed by the Lahore High Court  
Bahawalpur Bench Bahawalpur in Cr. Misc. No.4127-B/2020)*

***Muhammad Nadeem***

*...Petitioner(s)*

**Versus**

***Muhammad Khurram Iqbal and another***

*...Respondent(s)*

|                        |  |
|------------------------|--|
| For the Petitioner(s): | Nemo   |
| For Respondent No.1:   | Ch. Hafeez Ullah Yaqub, ASC with<br>respondent.<br>Mr. M. Sharif Janjua, AOR |
| For the State:         | Mirza Abid Majeed,<br>Deputy Prosecutor General Punjab                       |
| Date of Hearing:       | 17.02.2022.  |

**ORDER**

**Qazi Muhammad Amin Ahmed, J.:-** Impugned herein is order dated 11.01.2021 whereby a learned Judge-in-Chamber of the Lahore High Court at Bahawalpur Bench Bahawalpur admitted Khurram Latif respondent to bail in anticipation to his arrest in a criminal case under sections 3, 4 of the Punjab Prohibition Money Lending Act, 2007, registered with Police Station City Sadiqabad on the complaint of Muhammad Nadeem petitioner.

According to the petitioner, in the course of a business transaction, he borrowed a sum of Rs.150,000/- to be repaid through monthly installments of Rs.6000/- each, a terminal vicious circle that continued to burden him despite payment of Rs.500,000/-; as the petitioner exorbitantly raised the interest rate and also coerced him to issue bank cheques from his account, a sword of damocles over his head, trapped with no option, he finally laid information with the police and it is in this backdrop that

petitioner's first attempt before a learned Additional Sessions Judge at Sadiqabad failed, however, upon his approach to the High Court he was granted judicial protection vide impugned order dated 11.01.2021.

2. Heard. Record perused.

3. What weighed with the learned Judge-in-Chamber to favourably exercise his extraordinary equitable jurisdiction in respondent's favour, for the convenience of reference is reproduced below:-

*"After hearing the learned counsel for the parties and having gone through the record, it reveals that although the petitioner is named in the FIR with the above said accusation of committing violation of provision of the Act ibid, but at the same time I observed that during the course of investigation, an arbitration/Panchayat was convened between the parties and arbitration deed was executed, in which it is categorically written that the present petitioner is not involved in any money lending and an amount of Rs.44,700/- is still outstanding against Muhammad Nadeem towards the present petitioner. In this regard, the complainant himself has sworn an affidavit, copy of the same is annexed with this petition, in which he has reiterated that the petitioner is owner of Al-Medina Traders and he has no concern with the money lending and he further undertook to pay Rs.44700/- which were still outstanding against him. When this situation was put to the Investigating officer, present in court, he frankly conceded that an arbitration deed has been written between the parties."*

The reasoning by itself unmistakably confirms subsistence of a dispute raging between the parties over payment of some outstanding amount. Upon a direction issued by this Court, District Police Officer Rahim Yar Khan confirmed that the impugned affidavit, relied upon by the High Court was secured by the respondent, through means stained with duress and coercion, an act by itself constituting an offence under the law; at worst, hardly furnishing a justification to extend a relief rooted into equity that too by suspending usual course of law, inevitably arrest in a cognizable criminal case. It is by now well settled that protection of pre-arrest bail is essentially a judicial protection to protect the innocent, being

targeted through abuse of process of law for motives, oblique and sinister; it is neither a substitute for post arrest bail nor a treatment to be extended in every run of the mill criminal case. It is an option that warrants caution in its exercise, seemingly ignored by the High Court. Criminal Petition is converted into appeal and allowed; pre-arrest bail granted to the respondent is cancelled.

**Judge**

**Judge**

**Judge**

Islamabad, the  
17<sup>th</sup> February, 2022  
Azmat/-