

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

**PRESENT:**

MR. JUSTICE IJAZ UL AHSAN

MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

**CRIMINAL PETITION NO. 358-L OF 2022**

(Against the order dated 14.02.2022 passed by the  
Lahore High Court, Lahore in CrI. Misc. No. 933-B/2022)

Rana Muhammad Imran Nasrullah

...Petitioner(s)

**Versus**

The State etc

...Respondent(s)

For the Petitioner(s):

Mr. Saeedullah Khan, ASC  
(via video link from Lahore)

For the Respondent (2):

Rana Muhammad Zahid, ASC  
Syed Rifaqat Hussain Shah, AOR

For the State:

Mirza Muhammad Usman, DPG  
Mr. Asif Ali Shah, DSP  
Rana Abdul Ghafoor, SI  
Mr. Muhammad Afzal, ASI

Date of Hearing:

23.08.2022

**ORDER**

**SAYYED MAZAHAR ALI AKBAR NAQVI, J.-** Through the instant petition under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has assailed the order dated 14.02.2022 passed by the learned Single Judge of the Lahore High Court, Lahore, with a prayer to grant pre-arrest bail in case registered vide FIR No. 701/2021 dated 27.08.2021 under Sections 337-H(ii)/506(ii)/148/149 PPC & 440 PPC (*reportedly added later on*) at Police Station City Toba Tek Singh, in the interest of safe administration of criminal justice.

2. Briefly stated the prosecution story as set out in the crime report is that on 12.08.2021 at about 04.00 P.M., the complainant along

with his son and laborers was present on his plot and was raising construction over it when suddenly the petitioner along with his co-accused while armed with firearms came there, raised lalkara to leave the plot, demolished the newly constructed wall and extended threats of dire consequences to him. When the petitioner was forbidden by the complainant, he and his co-accused made straight fires on the son of the complainant, which luckily did not hit him.

3. At the very outset, it has been argued by the learned counsel for the petitioner that the petitioner has been falsely roped in this case against the actual facts and circumstances due to *mala fides* of the complainant in connivance with local police. Contends that the plot, which is the root cause of the occurrence, does not belong to the complainant and the petitioner is in possession of sale deed as well as a decree in his favour. Contends that civil litigation between the parties is pending adjudication and the present case is an attempt to pressurize the petitioner to gain ulterior motives. Contends that all the offences except Section 440 PPC are bailable in nature. Contends that Section 440 PPC is not applicable as the petitioner is owner of the property in dispute. Lastly contends that the petitioner deserves to be granted the extraordinary concession of pre-arrest bail in the interest of justice.

4. On the other hand, learned Law Officer assisted by learned counsel for the complainant have defended the impugned order. It has been contended that the petitioner has specifically been nominated in the crime report with a specific allegation of trespassing into the plot of the complainant, demolishing the newly erected wall and making straight fires on the son of the complainant. It has further been contended that according to the report of the Deputy Commissioner Toba Tek Singh, the complainant is the owner of the plot in question, therefore, the petitioner does not deserve any leniency by this Court.

5. We have heard learned counsel for the parties at some length and have perused the available record with their able assistance.

As per the contents of the crime report, the allegation against the petitioner is that he along with co-accused while armed with firearms went on the plot of the complainant, demolished the newly raised construction, extended threats of dire consequences to him and made straight fires on his son, which luckily did not hit him. However, it is the stance of the petitioner that he is owner of the plot in question where the occurrence took place; he is in possession of requisite title documents and in-fact the complainant party was the aggressor. It is admitted position that a suit for declaration qua the plot in question is still pending adjudication before the court of competent jurisdiction. In this view of the matter, the possibility of false implication just to pressurize the petitioners' side to gain ulterior motives cannot be ruled out. However, at this stage, we do not want to comment on this aspect of the matter, lest it may prejudice the case of either of the party. It is the Trial Court who after recording of evidence would decide about the guilt or otherwise of the petitioner and until then the petitioner cannot be put behind the bars for an indefinite period. It is settled law that liberty of a person is a precious right, which has been guaranteed under the Constitution of Islamic Republic of Pakistan, 1973, and the same cannot be taken away merely on bald and vague allegations. All the offences in the crime report except Sections 506(ii) and 440 PPC are bailable. So far as 'criminal intimidation' is concerned, the same has been defined in Section 503 PPC in the following words:-

**"503. Criminal Intimidation:** Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation."

6. A bare perusal of the afore-quoted provision of law makes it clear that whenever an overt act is materialized and ended into an overt act, the provision of Section 506(ii) PPC would not be applicable and the only provision which will remain in the field is the overt act, which is committed in consequence of criminal intimidation. In the present case, the provision of Sections 337-H(ii)/148/149 PPC have been alleged against

the petitioner, which is bailable in nature. As far as Section 440 PPC is concerned, the same was added at a belated stage and the application of the same would be resolved by the Trial Court after recording of evidence. It is now established that while granting pre-arrest bail, the merits of the case can be touched upon by the Court. Reliance is placed on Miran Bux Vs. The State (PLD 1989 SC 347) and Sajid Hussain @ Joji Vs. The State (PLD 2021 SC 898). Taking into consideration all the facts and circumstances stated above, we are of the view that the case of the petitioner squarely falls within the ambit of Section 497(2) Cr.P.C. entitling for further inquiry into his guilt.

6. For what has been discussed above, we convert this petition into appeal, allow it, set aside the impugned order dated 14.02.2022 and confirm the *ad interim* pre-arrest bail granted to the petitioner vide this Court's order dated 28.06.2022.

JUDGE

JUDGE

Islamabad, the  
23<sup>rd</sup> of August, 2022  
Approved For Reporting  
**Khurram**