

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE UMAR ATA BANDIAL

MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

CRIMINAL PETITION NO. 796-L OF 2021

(On appeal against the order dated 01.06.2021 passed by the Lahore High Court, Lahore in Criminal Miscellaneous No. 22073-B/2021)

Waqas ur Rehman alias Moon

... Petitioner

VERSUS

The State etc

... Respondents

For the Petitioner: Mian Muhammad Aslam, ASC a/w petitioner

For Respondent (2): In person

For the State: Mr. Muhammad Jaffer, Addl. P.G.
Mr. Bashir Ahmed, ASI

Date of Hearing: 13.10.2021

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 01.06.2021 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. 1578/2020 dated 05.12.2020 under Section 420/468/471 PPC at Police Station Manawan, District Lahore, in the interest of safe administration of criminal justice.

2. As per the contents of the crime report, the complainant wanted to purchase a house and for this purpose she along with her husband went to the office of the property dealer where the petitioner along with co-accused were present. They showed her a house, received a sum of Rs.500,000/- as advance along with Rs.50,000/- as commission and handed over to her Fard Malkiyat of the house. However, later on it transpired that the said house was owned by someone else and the Fard Malkiyat was found to be a bogus document.

3. *Learned counsel for the petitioner contends that the petitioner has been falsely roped in this case against the actual facts and circumstances due to connivance of the complainant with local police. Contends that the very office where the complainant went does not belong to the petitioner and he was merely sitting in the office. Contends that neither the petitioner participated in the transaction nor received any consideration or stood witness, therefore, he cannot be saddled with the liability.*

4. *On the other hand, learned Law Officer contended that the petitioner has been specifically nominated in the crime report. He contends that the petitioner is habitual cheater/offender and three other criminal cases of similar nature have been registered against him. Contends that even he did not appear before the High Court on the ground that he has been tested positive for COVID-19 but the certificate placed on record by him was subsequently found bogus. Lastly contends that the petitioner was also found guilty during the police investigation and he does not deserve any leniency by this Court.*

5. *We have heard learned counsel for the parties at some length and have perused the record.*

The petitioner is involved in a case where a woman folk has been deprived of valuable money under the disguise of handing over a house against a consideration of Rs.500,000/- in cash and Rs.50,000/- as commission. The argument of learned counsel for the petitioner that the petitioner has no nexus with the crime alleged does not appeal to reason as it is an admitted fact that the petitioner is one of the signatory of the document which reflects that the petitioner in connivance with other co-accused has managed to defraud a household lady. The accusation against the petitioner was otherwise found correct during the course of investigation and as such a definite finding of guilt has been given by the Investigating Officer against the petitioner. We are conversant with the fact that the ipsi dixit of the police is not binding on the Courts but it has persuasive value. The conduct of the petitioner is very material in this case. During the pendency of the second bail petition of the petitioner before the High Court, a certificate regarding his sickness was produced wherein it was specifically mentioned that he is

suffering from COVID-19. However, the said certificate on inquiry was found to be bogus one. Even otherwise, the petitioner did not appear before the High Court although he was admitted to ad interim bail twice in two different petitions by the High Court that too in extraordinary circumstances. The grant of pre-arrest bail undeniably is extraordinary relief, which has to be exercised sparingly with an intent to save the innocent persons from trump-up charges whereas in the instant case we are informed that the petitioner is otherwise involved in three other cases of similar nature, which further lends support to the fact that the petitioner is prone to criminal activities coupled with the fact that he is so dare devil that he did not even hesitate to cheat the highest judicial forum of a province and the same is reflected from paragraph (3) of the order impugned before us. In view of the facts and circumstances of this case and the nature of offence committed by the petitioner, we are persuaded to decline the prayer for grant of pre-arrest bail. As a consequence, the instant petition filed by the petitioner is dismissed and leave to appeal is refused.

JUDGE

JUDGE

Lahore, the
13th of October, 2021
Approved For Reporting
Khurram