

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

**PRESENT:**

MR. JUSTICE IJAZ UL AHSAN

MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

**CRIMINAL PETITION NO. 1212-L OF 2022**

(On appeal against the order dated 21.09.2022  
passed by the Lahore High Court, Lahore in Crl. Misc.  
No. 34009-B/2022)

Muhammad Imran

... Petitioner

**Versus**

The State etc

... Respondents

For the Petitioner: Mr. Abdul Samad Khan Bisriya, ASC a/w  
petitioner  
(Both via video link from Lahore)

For the State: Nemo

For the Complainant: Nemo

Date of Hearing: 01.03.2023

**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 21.09.2022 passed by the learned Single Judge of the learned Lahore High Court, Lahore, with a prayer to grant pre-arrest bail in case registered vide FIR No. 160 dated 01.05.2022 under Section 379 PPC at Police Station Shahbore Okara, in the interest of safe administration of criminal justice.

2. Briefly stated the prosecution story as narrated in the FIR is that the complainant had cultivated wheat crop on her agricultural land measuring 2 kanals situated in District Okara. On 14.04.2022 at about 11.00 am, the petitioner along with co-accused entered in her land, cut the wheat, which was worth Rs.50,000/- and took away the same with him in a tractor.

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 FIR was lodged after an inordinate delay of 16 days, which shows that the same was registered after

deliberation and consultation. Contends that the land, which is the root cause of the occurrence, does not belong to the complainant and the petitioner's real aunt is in continuous possession of the property since long. Contends that in the crime report no specific role has been attributed to the petitioner and the same is general in nature, therefore, the case of the petitioner is one of further inquiry. Contends that the co-accused namely Sharif, who was ascribed the similar role, has been granted bail by the court of competent jurisdiction, therefore, following the rule of consistency the petitioner also deserves the same treatment to be meted out. Lastly contends that learned High Court while declining bail to the petitioner has not followed the guidelines enunciated by this Court, therefore, the same may be set at naught.

4. None has entered appearance on behalf of the State and the complainant despite of the fact that notice was dully issued to them by this Court vide order dated 03.02.2023. Therefore, we are left with no option except to hear this case on merits.

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

As per the contents of the crime report, the allegation against the petitioner is that he cut the standing crop of wheat from the land of the complainant; took away the same with him and caused her a loss of Rs.50,000/-. However, it is the stance of the petitioner that the complainant is not in possession of the land in question and it is the paternal aunt of the petitioner, who is in possession of the land and they have the requisite title documents with them. It seems, the primary dispute between the parties is with regard to the ownership/possession of the land. In this view of the matter, the possibility of false implication just to pressurize the petitioner's 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. The crime report was lodged after a delay of 16 days for which the complainant did not utter a single word. In the crime report, only a general role has been ascribed to the petitioner and his three co-accused. We have been informed that two co-accused of the petitioner have been declared innocent during investigation. The other co-accused Sharif, who was ascribed the similar

role, has been granted post-arrest bail by the court of competent jurisdiction. In these circumstances any order by this Court on any technical ground that the consideration for pre-arrest bail and post-arrest bail are entirely on different footing would be only limited upto the arrest of the petitioner because of the reason that soon after his arrest he would be entitled for the concession of post-arrest bail on the plea of consistency. Reliance is placed on the cases reported as Muhammad Ramzan Vs. Zafarullah (1986 SCMR 1380), Kazim Ali and others Vs. The State and others (2021 SCMR 2086), Muhammad Kashif Iqbal Vs. The State and another (2022 SCMR 821) and Javed Iqbal Vs. The State through Prosecutor General of Punjab and another (2022 SCMR 1424). Even otherwise, all the four accused have been ascribed the role of jointly causing a loss of Rs.50,000/- to the complainant. 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. 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), Sajid Hussain @ Joji Vs. The State (PLD 2021 SC 898), Javed Iqbal Vs. The State (PLD 2022 SCMR 1424) & Muhammad Ijaz Vs. The State (2022 SCMR 1271). 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 21.09.2022 and confirm the *ad interim* pre-arrest bail granted to the petitioner vide this Court's order dated 03.02.2023. The above are the detailed reasons of our short order of even date.

JUDGE

JUDGE

Islamabad, the  
1<sup>st</sup> of March, 2023  
Approved For Reporting  
Khurram