

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Crl. Misc. No.707-B/2020

Shujat Kiyani

versus

The State & another

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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10.06.2020

Mr. Naveed Shahzad Ch., Advocate for petitioner.

Ch. Ehsan Majeed Gujjar, State Counsel.

Mumtaz Malik, S.I., P.S. Golra Sharif, Islamabad.

Rashid Mehmood, ASI, P.S. Sabzi Mandi, Islamabad.

MOHSIN AKHTAR KAYANI, J: Through this criminal miscellaneous petition, the petitioner has prayed for post arrest bail in case FIR No.373, dated 09.08.2019, under Sections 392/411 PPC, P.S. Golra Sharif, Islamabad.

2. Brief facts as referred in the above-mentioned FIR are that Masood Ahmad Bhatti (respondent No.2) submitted a complaint alleging therein that on 30.07.2019, at about 11:25 a.m., when he along with his family members was at home, three (03) armed men with muffled faces, aged about 25-40 years, forcibly entered in his house and robbed their valuables including jewelry, electronic items and cash. The said complaint was converted into case FIR No.373/2019 and during investigation of the same, the petitioner was arrested. The petitioner applied for his post arrest bail before Learned Judicial Magistrate Section-30, Islamabad and learned Sessions Judge, Islamabad, however the same was concurrently dismissed. Hence, the instant post arrest bail application.

3. Learned counsel for petitioner contends that the petitioner had not been nominated in the instant case, rather

he has been involved on the statement of co-accused, which otherwise has no value in the eyes of law; that the allegations against the petitioner are false, frivolous, baseless and concocted in nature having no legs to stand against the petitioner; that the investigation in the instant matter has already been completed and further detention of petitioner would not serve any useful purpose, therefore, the petitioner may be enlarged on bail.

4. Conversely, learned State Counsel opposed the instant post arrest bail application on the grounds that the petitioner is guilty in instant matter as some of gold ornaments have been recovered from the petitioner, which have been identified by the complainant, and as such, challan has been submitted in the Court and charge has been framed against the petitioner, therefore, the instant bail application may be dismissed.

5. Arguments heard, record perused.

6. The tentative assessment of record reveals that petitioner has been arrested in criminal case FIR No.373, dated 09.08.2019, under Section 392 PPC, P.S. Golra Sharif, Islamabad, lodged on complaint of Rasool Ahmad Bhatti (respondent No.2), whereby on 30.07.2019, at 11:25 a.m., three unknown armed persons with muffled face entered into his residence i.e. House No.6, Main Double Road, Sector D-12, Islamabad and robbed the complainant and his family members of gold ornaments, necklaces, jewelry, Apple Mac, Macbook Pro and other personal belongings. The petitioner has been nominated through supplementary statement, who got recovered two gold necklaces belonging to complainant's family on 25.12.2019, which were also identified by the complainant.

7. Learned counsel for petitioner contends that petitioner has not been identified in identification parade conducted in jail on 29.11.2019, however the appreciation of identification parade could not be considered at this stage, especially when petitioner has also been identified in two other criminal cases prior to identification parade conducted in instant matter.

8. At this stage, the petitioner, who got recovered the robbed gold ornaments, *prima facie*, is connected with heinous crime of armed robbery and as such, the investigation has been completed to his extent, challan has been submitted in the Court on 30.11.2019 and even charge has been framed. On the other hand, the learned State Counsel contended that the trial will be concluded soon.

9. While considering the above background, the petitioner is, *prima facie*, connected with the offence, which otherwise falls within the prohibitory clause of Section 497 Cr.P.C.

10. Keeping in view the above position, the instant post arrest bail application is meritless and the same is hereby **DISMISSED**.

11. However, while considering the analogy drawn from **2011 SCMR 1332 (Rehmat Ullah vs. The State)**, the learned Trial Court seized with the matter is directed to conclude the trial within the period of 08 months.

MOHSIN AKHTAR KAYANI)
JUDGE

Khalid Z.