

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

Criminal Misc. No. 08-B/ 2020
Muhammad Kamal
Versus
The State, etc

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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3	21.01.2020	Rana Liaquat Hayat, Advocate for the petitioner. Mr. Tahir Hameed Khan Niazi, State Counsel. Fawad Khalid ASI/CIA with record.
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Through the instant petition, petitioner {Muhammad Kamal} seeks post arrest bail in case FIR No.49 dated 07.02.2019, under Sections 170/171/420 PPC, Police Station Sihala, Islamabad.

2. According to the allegations, set-forth in the FIR, complainant Manazir Hussain alongwith Zafeer & Arslan on 06.09.2019 had been on their way to Kalar Syedan in vehicle No.RIA-1808/08 when at about 01:00 p.m, near Gangal stop, vehicle No.9331-LEA Corolla XLI intercepted them; two persons having wireless sets alighted from the said vehicle and asked for checking of passport and other documents of Zafeer; in that pursuit they extracted 1700 Pound Sterling from said Zafeer and then fled away.

3. Learned counsel contends that petitioner is innocent and has falsely been implicated in this case; that offences do not fall within the ambit of prohibitory clause of Section 497 Cr.P.C; that petitioner is behind the bars since arrest and no more required for investigation; there is delay of one day in lodging of FIR as allegedly occurrence

took place on 06.02.2019, whereas FIR was registered on 07.02.2019 despite existence of short distance of about 15 minutes *inter-se* the place of occurrence and the police station; even otherwise, the delay caused has not been explained by the prosecution.

4. Learned counsel further contends that petitioner is previous non-convict and case is one of further inquiry.

5. Conversely, learned State Counsel repelled the above submissions, *inter-alia* stating that petitioner is specifically named in the FIR; no malice or *malafide* has even been alleged on the part of police or complainant; the petitioner is involved in number of other cases and appears to be a habitual offender, therefore, cannot be held entitled to the concession of bail.

6. Arguments heard, record perused.

7. Record reveals that there is delay of one day in lodging the FIR without any explanation. Offences alleged do not fall within the ambit of prohibitory clause of section 497 Cr.PC and grant of bail in such like offences is rule and refusal is an exception. Petitioner is a previous non-convict. The tentative assessment of the material available on record *prima facie* makes the case of the petitioner one of further inquiry.

8. In addition, it is noticed that investigation in the present case has been completed; petitioner is no more required for further probe and that he has already been enlarged on bail in other cases. Mere involvement in other cases without conviction would not be considered a bar to extend concession

of bail, if the case otherwise calls for further inquiry.

9. Consequently, instant bail petition is allowed. The petitioner {Muhammad Kamal} is admitted to post-arrest bail subject to furnishing bail bonds in the sum of Rs.100,000/- with one surety in the like amount to the satisfaction of the learned Trial Court.

10. Needless to mention that, this is tentative assessment for the purpose of this petition only, which shall not affect/influence trial of this case in any manner.

(FIAZ AHMAD ANJUM JANDRAN)
JUDGE

Imran