

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

Criminal Miscellaneous No. 679-B of 2019

Ibrahim Khan

VS

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.
(6)	02.12.2019.	Syed Zia Hussain Kazmi, Advocate for petitioner. Mr. Naeem Ahmed Awan, State Counsel. Mr. Muhammad Furqan Shabbir, Advocate for respondent No.2/complainant. Mr. Azhar Shah, DSP, Legal. Mr. Gulfaraz, S.I. Mr. Zaheer Ahmed, ASI.

The petitioner namely Ibrahim Khan seeks bail after arrest in case FIR No.111/19, dated 01.04.2019, for offence under Section 392 PPC read with Section 412 PPC, Police Station Khanna, Islamabad.

2. The case of the prosecution against the petitioner is that a complaint was lodged by respondent No.2 which culminated into FIR in question. In the said FIR, it was alleged that some unknown men entered in the shop of the complainant and robbed him and

customers present by depriving them from their cellular phones and cash.

3. The petitioner was arrested on 26.05.2019, and applied for bail after arrest which was dismissed by the learned Judicial Magistrate-East, Islamabad, vide Order dated 01.10.2019. The bail petition was also dismissed by the learned Additional Sessions Judge-VI, East-Islamabad, vide Order dated 12.10.2019.

4. Learned counsel for the petitioner, inter alia, contended that the petitioner was arrested in some other case and later arrested in the instant matter; that there is delay in lodging of FIR as the instant FIR was registered on 01.04.2019, whereas alleged occurrence is of 21.03.2019. It was submitted that identification parade was conducted on 18.07.2019 and recovery of Rs.5,000/- has been effected from him. It was submitted that in the identification parade only the complainant participated and not the other witnesses. It was also contended that there is significant delay in lodging of FIR. Learned counsel also

submitted that the co-accused of the petitioner has been allowed bail.

5. Learned State Counsel alongwith the learned counsel for respondent No.2/complainant, *inter alia*, contended that identification parade was conducted in which the petitioner has been positively identified; that recovery has been effected; that in the investigation, the petitioner has been found guilty; that report under Section 173 Cr.P.C. has been filed.

6. Arguments advanced by learned counsel for the parties have been heard and documents placed on record examined with their able assistance.

7. The bare perusal of the application filed by respondent No.2 shows that the complaint was filed in the Office of SSP concerned on 26.03.2019. The alleged occurrence is of 21.03.2019, hence there is a significant delay in filing of the complaint. Learned counsel for the complainant though, during the course of arguments, justified the delay that a call was made on 15 and thereafter the staff of the Police Station Khanna, Islamabad,

did come but said that they would come again, however, they never came back. The referred justification is inconsequential inasmuch as the petitioner waited for 4 to 5 days. The FIR is silent about the description of the accused persons as to their age, colour or other details and even if the petitioner has been positively identified that makes the case against the petitioner one of further inquiry. No recovery has been effected though it was stated that sum of Rs. 5,000/- has been recovered which is immaterial. The investigation stands concluded and the petitioner is not further required for the same.

8. In view of the above, the instant petition is allowed and the petitioner is enlarged on bail after arrest subject to furnishing bail bonds in sum of Rs. 20,000/- with one (1) surety in the like amount to the satisfaction of learned trial Court.

(AMER FAROOQ)
JUDGE