

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

Crl. Misc. No.819-B/2020

Muhammad Amir

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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14.07.2020

Mr. Rais Mumtaz Hussain, Advocate for petitioner.

Mr. Aftab Ali, Advocate for Respondent No.2 (complainant)

Mr. Hammad Saeed Dar, State Counsel.

Mumtaz Baig, S.I., P.S. Koral, Islamabad.

MOHSIN AKHTAR KAYANI, J: Through this criminal miscellaneous petition, the petitioner has prayed for his post arrest bail in case FIR No.458, dated 26.09.2019, under Sections 392/411 PPC, Police Station Koral, Islamabad on the ground that previous order of this Court, dated 20.12.2019, passed in Crl. Misc. No.778-B/2019, whereby direction for early conclusion of trial within the period of six (06) months has not been complied with and the trial is pending adjudication.

2. Brief facts as referred in the instant case are that the petitioner has been arrested in the aforesaid case FIR for allegedly committing armed robbery, who was also positively identified in the identification parade conducted in Adiala Jail, Rawalpindi. However, the petitioner earlier filed his post arrest bail application before this Court i.e. Crl. Misc. No.778-B/2019, which was dismissed with the direction to the learned trial Court to conclude the trial within the period of six (06) months, but the same has not yet been concluded. Hence, the instant post arrest bail application.

3. Learned counsel for petitioner contends that the despite elapse of direction period the trial has not been concluded; that co-accused has been granted bail; that evidence is not being recorded due to COVID-19 Pandemic as accused person has not been produced; that the basic principle of criminal administration of justice is bail and not the jail; that keeping the petitioner behind the bars would serve no useful purpose, hence, he may be enlarged on bail.

4. Conversely, learned State Counsel contends that trial is not completed due to COVID-19 Pandemic as the accused person has not been produced by the jail authorities; that delay has been caused in the trial for the reason that other three (03) co-accused persons were arrested after passing of direction of this Court and investigation to that extent has already been completed and fresh *challan* has been submitted before the learned trial Court.

5. Arguments heard, record perused.

6. Tentative assessment of the record reveals that the direction earlier passed by this Court has not been complied with due to circumstances beyond the control of the learned Trial Court, though no fault of the prosecution is apparent on record.

7. It has been settled by the apex Court through judgment reported as PLD 2016 SC 11 (Nisar Ahmad vs. The State) that non-compliance of direction could not be considered a valid ground for grant of bail, however the petitioner has earned a right to be dealt with in accordance with law within the reasonable time, therefore, instant bail application is DISMISSED with direction to the learned Trial Court seized with the matter to conclude the trial on or before

31.12.2020. However, if the accused person could not be produced by the jail authorities due to COVID-19 Pandemic, his presence be ensured through video link facility in order to conclude the trial within the time specified i.e. by 31.12.2020.

(MOHSIN AKHTAR KAYANI)
JUDGE

Khalid Z.