

Form No: HCJD/C-121.  
**ORDER SHEET.**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

**Criminal Miscellaneous No.696/B of 2020**

**Qamar Mukhtar  
VS  
The State & another**

<b>S. No. of order/ proceedings</b>	<b>Date of order/ proceedings</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
	<b>01.06.2020.</b>	<b>Mr. Muhammad Zafar Khokhar, Advocate for the petitioner. Raja Muhammad Farooq, Advocate for respondent No.2/complainant. Mr. Toufeeque-ul-Irfan Asif, learned State Counsel. Muhammad Manzoor, SI.</b>

The petitioner, Qamar Mukhtar S/o  
Mukhtar Ahmed, seeks bail after arrest in case  
F.I.R. No.356/19, dated 09.08.2019, under  
Sections 324/34, 337-F(ii) P.P.C. Police Station  
Koral, Islamabad.

2. The case of the prosecution against  
the petitioner is that on the complaint of  
respondent No.2 the above-mentioned F.I.R.  
was registered, wherein it was alleged that the  
father of the complainant, who is special  
person was sitting outside his house when the  
petitioner alongwith his driver approached him  
where after he heard a gunshot and the  
petitioner and his driver fled away. The  
complainant alleged that he took his father to  
the hospital, where he was treated; and that  
the petitioner shot at his father with the  
intention to kill.

3. The petitioner applied for bail after arrest, which was dismissed by the Judicial Magistrate, vide order dated 27.02.2020. The application before the Sessions Judge was also dismissed on 07.04.2020, hence the petition.

4. Learned counsel for the petitioner, *inter-alia*, contended that the alleged occurrence is of 09.08.2019, at about 02:30 PM, whereas the petitioner was taken to hospital at 04:29 PM and the application for registration of the F.I.R. was filed at 07:20 P.M. on the said date, hence there is a considerable delay in lodging of the F.I.R. It was further contended that as per the story of the prosecution one gunshot fire is attributed to the petitioner, which hit the victim on his leg and it was not treated, hence Section 324 P.P.C. is not attracted in the facts and circumstances and in case the story of the prosecution is to be believed the only injury attributed to the petitioner is under Section 337-F(ii) P.P.C., which entails maximum punishment of three (03) years and the same does not fall within the prohibitory clause of Section 497 Cr.P.C. It was contended that the investigation stands concluded and the petitioner is not required for further investigation. Reliance was placed on "*Muhammad Afsar Vs. The State*" (1994 SCMR 2051), "*Umar Hayat Vs. The State and*

*others” (2008 SCMR 1621) and “Muhammad Afzal Vs. The State” (2004 YLR 94).*

5. Learned State Counsel alongwith counsel for the Complainant, *inter-alia*, contended that there are about sixteen (16) other cases of similar nature pending against the petitioner; that in the investigation the petitioner has been found guilty; that if released on bail, it is likely that the petitioner might repeat the offence. It was further contended that in the facts and circumstances it is appropriate that a direction be issued to the learned Trial Court.

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

7. The petitioner is implicated with offences under Sections 324/34 and 337-F(ii) P.P.C. The former offence attracts maximum punishment of life imprisonment, however, as per the prosecution’s version, the petitioner shot the victim, which hit him on the leg which is a non-vital part; the gunfire was not repeated, hence in the facts and circumstances *prima facie* Section 324 P.P.C. is not attracted. Reliance is placed on “*Muhammad Kamran Vs. The State and another” (Criminal Misc. No.307-B of 2017)*. The other offence

namely Section 337-F (ii) P.P.C. attracts maximum punishment of three (03) years, hence does not fall within the prohibitory clause. In such like cases grant of bail is a rule and refusal is an exception. Reliance is placed on "*Tariq Bashir and 5 others Vs. State*" (**PLD 1995 SC 34**). The exceptions enumerated in the referred judgment does provide that if it is likely that the petitioner would repeat the offence, concession of bail is not granted, however, the Hon'ble Supreme Court of Pakistan another judgment reported as "*Qurban Ali Vs. The State and others*" (**2017 SCMR 279**) held that the mere pendency of the cases of similar nature against the petitioner is inconsequential for grant of bail unless there is conviction.

8. Under the facts and circumstances, there appears to be delay of few hours in making complaint for registration of case which makes the case one of further inquiry.

9. In view of the above, the instant petition is **allowed** and the petitioner is enlarged on bail after arrest in the abovementioned F.I.R. subject to furnishing bail bonds in the sum of Rs.2,00,000/- (Rupees Two Hundred Thousand Only) with one (01) surety in the like amount to the satisfaction of learned Trial Court. In case the petitioner repeats the offence of the nature as

is in the instant case the respondents may move an appropriate application for cancellation of the concession of bail.

**(AAMER FAROOQ)**  
**JUDGE**

*\*M. Zaheer Janjua\**