

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Criminal Misc. No. 488/B/2019.

Azhar Ahmed, etc.

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.
	20.08.2019.	Raja Shiraz Ahmed Janjua, Advocate for petitioners. Ms. Saima Naqvi, State Counsel. Abdul Sattar Baig and Rafi Ullah, S.Is. Complainant in person.

Through this Crl. Misc. petition, the petitioners Azhar Ahmed and Qasim Ali have applied for post-arrest bail in case FIR No.131, dated 09.05.2016, U/S 392/412 PPC, P.S. Sabzi Mandi, Islamabad.

2. Brief facts referred in the instant case FIR got lodged by the complainant/respondent No.2 are that on 09.05.2016 at about 01:00 p.m. three boys entered into his House No.389, Street No.17, Sector 1-10/2, Islamabad, tide the maid on chair and started searching the house. The accused left the complainant's house at about 01:45 p.m. when complainant's wife who was outside the house, rang the bell, after looting cash Rs.20,000/-, 05 tola gold jewelry and purse containing ATM Card, Service Card and ID Card.

3. Learned counsel for the petitioners contends that petitioners were taken into custody on 18.05.2017 and after the elapse of two years and four months trial

has not yet been concluded and statutory period provided under the law has already been elapsed; that prosecution is guilty for causing delay in trial and petitioners are no more required for the purposes of investigation, hence they are entitled for concession of post-arrest bail.

4. Conversely, learned counsel for the State alongwith complainant contends that petitioners were identified during the course of identification parade, even weapon of offence was recovered and petitioners are desperate and hardened criminals and are not entitled for concession of post arrest bail and the delay in conclusion of trial caused due to accused persons.

5. Arguments heard, record perused.

6. Tentative assessment of record reveals that petitioners are involved in criminal case FIR No.131, dated 09.05.2016, U/S 392/412 PPC, P.S. Sabzi Mandi, Islamabad and allegedly they committed armed robbery in the house of complainant, looted gold jewelry, cash and purse containing ATM Card, Service Card and ID Card.

7. The cursory glimpse of record reveals that accused have been identified during the course of identification parade conducted in Adyala Jail, Rawalpindi and even weapon of offence and looted jewelry have been recovered from the petitioners. Number of criminal cases of similar nature have been registered against the petitioners. Challan has been

submitted in the Court and charge was framed on 30.10.2017.

8. This Court has requisitioned the record of trial Court which shows that petitioners have filed an application U/S 249-A Cr.P.C. which was dismissed by the trial Court vide order dated 29.09.2018. However, certain notices were issued to complainant but no evidence has been recorded. This entire scenario reveals that trial has not been conducted by the trial Court in a proper manner and benefit of same cannot be extended in favour of petitioners who are involved in hideous crime, which otherwise falls within the prohibitory clause of Section 497 Cr.P.C.

9. Petitioners are *prima-facie* well connected with the crime allegedly committed by them, which otherwise is hideous in nature. Delay in trial is though a valid ground for seeking bail, however, in the name of statutory delay, the Court is not supposed to give up its sacred duty of careful examination of facts and circumstances of the case before exercising the discretion in favour of the accused for grant of bail. Reliance is placed upon 2016 MLD 1742 [Sindh] (Muhammad Iqbal Vs. The State).

10. Keeping in view the above, petitioners are not entitled for concession of post-arrest bail, instant post arrest bail petition is meritless and the same is hereby dismissed. However, while relying upon 2011 SCMR 1332 (Rehmatullah Vs. The State) learned trial Court seized

with the matter is directed to conclude the trial on or before 30.09.2019 by all means after proceeding with the same on day to day basis under intimation to this Court. The complainant of instant case is also directed to appear before the trial Court for recording his testimony on the next date of hearing.

(MOHSIN AKHTAR KAYANI)
JUDGE

Zahid