

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

**Criminal Miscellaneous No.643/B of 2020**

**Nouman Ahmed**  
**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>06.05.2020.</b>	<b>Rao Sabir Hussain, Advocate for the petitioner. Mr. Toufeeque-ul-Irfan Asif, learned State Counsel. Complainant/Respondent No.2, in person. Haider, ASI.</b>

The petitioner, Nouman Ahmed S/o Ahmed Hayat, seeks bail after arrest in case F.I.R. No.485/19, dated 18.12.2019, under Sections 392 and 411 P.P.C., Police Station Ramna, Islamabad.

2. The case of the prosecution against the petitioner is that complaint was filed by respondent No.2, wherein it was alleged that on the evening of 18.12.2019, he went out carrying his mobile when a motorcycle intercepted him and there were three young men on the same; one person of height about 5.6 inch dark complexion and aged about 20 to 21 years had 30 bore pistol, which he pointed towards the complainant and the other person snatched mobile phone and wallet containing Rs.25,000/- alongwith coloured photographs of the NIC and the third person remained on the

motorbike. It was also alleged that he can recognize the persons if he see them again.

3. The petitioner applied for bail after arrest, which was dismissed by the learned Judicial Magistrate, vide order dated 04.04.2020. Application was also rejected by the learned Additional Sessions Judge, vide order dated 13.04.2020, hence the petition.

4. Learned counsel for the petitioner, *inter-alia*, contended that the petitioner was arrested in another F.I.R. but has been implicated in the instant one. It was contended that recovery of Rs.2,000/- and wallet has been attributed to him, which does not connect the petitioner with the commission of the offence. It was further contended that the identification parade was not carried out in accordance with the law settled by the Hon'ble Supreme Court of Pakistan. In this behalf, it was contended that the features and the role specified in the F.I.R. are different while recognizing the petitioner in the identification parade. It was submitted that the investigation stands concluded and the petitioner is not required for further investigation.

5. Learned State Counsel, *inter-alia*, contended that wallet and Rs.2,000/- has been recovered from the petitioner; that there are other cases of similar nature pending against

the petitioner; that in the investigation the petitioner has been found guilty.

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 has been implicated in the above-mentioned case. In this regard, he was arrested on 19.12.2019 and was subjected to identification parade on 27.01.2020. In the identification proceeding, the role attributed to the petitioner is pointing of the pistol and snatching of purse/wallet containing Rs.25,000/- as well as mobile phone; however, in the F.I.R. the role attributed to the person pointing the gun was only to that extent and snatching of the wallet/purse as well as mobile phone was attributed to the another person, hence there is difference in the F.I.R. and the identification proceedings, which makes the case against the petitioner one of further inquiry. The identification proceedings are in violation of law laid down by the Hon'ble Supreme Court in the case of Kanwar Anwaar reported as (**PLD 2019 SC 488**).

8. Learned State Counsel argued that wallet has been recovered from the petitioner; even if such is the case the same pertains to

handling of stolen goods, which offence does not fall within the prohibitory clause as provided in Section 497 Cr.P.C and in such like cases grant of bail is a rule and refusal is an exception. Reliance is placed on case reported as "*Tariq Bashir Vs. The State*" (**PLD 1995 SC 34**).

9. In view of the above, the instant petition is **allowed** and the petitioner is admitted to bail after arrest in the above-mentioned case subject to furnishing bail bonds in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one (01) surety in the like amount to the satisfaction of the learned Trial Court. It is clarified that the observations made hereinabove are tentative in nature and shall not prejudice the learned Trial Court at the time of trial.

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

\*M Zaheer Janjua\*