

HCJD/C-121  
**ORDER SHEET**

**ISLAMABAD HIGH COURT**  
**ISLAMABAD**

**CRL. MISC. NO. 618-B of 2020.**

**Muhammad Sulaiman Qureshi.**  
*VERSUS*  
**The State, etc**

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
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31.03.2020. Mr Ali Nawaz Kharal, Advocate for the petitioner.  
Mr Fazal, S.I./I.O. FIA with record.

The petitioner Muhammad Sulaiman Qureshi son of Sultan Mehmood Qureshi has sought post arrest bail in case, F.I.R. No. 06, dated 05.03.2020, registered under section 5(2) of the Prevention of Corruption Act, 1947, sections 420, 468, 471, 477-A and 409 of Pakistan Penal Code, 1860 (hereinafter referred to as "**FIR**") at Police Station FIA Anti-Corruption Circle, Islamabad.

2. Brief facts as alleged in the FIR are that the petitioner while posted as Accountant in the Embassy of Pakistan, Vienna, Austria was found involved in transferring of amounts in his and his wife's personal accounts and caused loss of Rs.30 million to the Ex-chequer. Hence the instant FIR.

3. The learned counsel for the petitioner has contended that; the latter has been falsely involved in the instant case; there is no chance of abscondance of the petitioner or tampering with the prosecution evidence; the instant case has been registered against the petitioner just

to harass and pressurize him; the petitioner has not committed the alleged offences; the impugned transactions were approved by the competent authority and the petitioner has no concern whatsoever with the same; the petitioner has not forged bank advices, rather the same were issued after the approval of the competent authority i.e. the head of the Mission; the instant FIR was lodged against the petitioner on the report of finger expert, which was not an original document, rather it was a photo copy of document; no incriminating material was recovered from the petitioner; the petitioner has been incarcerated for the last twenty-five days; further incarceration of the petitioner will not serve any useful purpose; offences are not attracted against the petitioner; there is no direct or indirect evidence against the petitioner; the petitioner has no criminal record; offences do not fall within the prohibitory clause of section 497 of Cr.P.C.; the petitioner is innocent; investigation qua the petitioner has been completed and he is no more required for the purposes thereof; allegations against the petitioner are false, fake and concocted; the petitioner has no nexus with the commission of the alleged offences; there is unexplained delay of more than one year in registration of the instant case; the instant FIR was registered without holding any preliminary inquiry, which is a mandatory requirement under sections 3 & 5 the Ordinance of 2002 read with the FIR (Investigations and Inquiries Rule, 1975); the case against the petitioner is of further inquiry; hence the learned counsel urges the petitioner to be released on bail.

4. On the other hand Fazal S.I./I.O. Federal Investigation Agency appeared and produced record; it is contended that; the petitioner is nominated in the FIR; specific role has been attributed to the petitioner;

the petitioner has caused huge loss to the Ex-chequer while transferring amounts in his and his wife's accounts; the conduct of the accused brings his case within the exception to the general rule in case of offences falling within the non-prohibitory clause of section 497 Cr.P.C. and, therefore, has urged for dismissal of bail.

5. The learned counsel for the petitioner has been heard and record pursued.

6. Perusal of record shows that the instant case was registered after considerable delay of more than one year. The alleged occurrence is stated to have been committed in the year 2017-2019, whereas the instant FIR was registered on 05.03.2020. The petitioner was an Accountant in the Embassy of Pakistan, Vienna, Austria at the time of commission of the alleged offences. The petitioner remained on physical remand but during this period, no incriminating material was recovered from the petitioner. The Investigating Officer present in the Court has stated that due to pandemic COVID-19, the flights operation to Vienna are temporary suspended, therefore, record from the concerned Embassy could not be obtained. Moreover, it was also admitted that verification of bank accounts is yet to be made so as to ascertain whether funds other than salary were siphoned off. Report under section 173 of Cr.P.C. has not been submitted before the learned trial Court as yet. The petitioner has been incarcerated for twenty-five days. His continued incarceration will not serve any useful purpose. Deeper appreciation of evidence at this stage is not permissible. Moreover, there is nothing on record to show that the alleged recovery has been affected from the present petitioner.

Investigation qua the petitioner has been completed. The questions, whether ingredients of the alleged offences are fulfilled, whether the petitioner had committed the alleged offences being solely competent authority and his role and involvement, requires further probe. The record also shows that the petitioner was not the competent authority and cannot finalize the impugned transactions and also cannot issue advices to the Banks. The petitioner does not have a criminal record. Nothing has been placed on record to indicate that the petitioner may abscond or tamper with the prosecution evidence if he is released on bail. This Court is, therefore, of the opinion that the petitioner is entitled to be released on bail.

7. It has been aptly observed by the august Supreme Court in the case of "*Manzoor and 04 others versus The State*" reported as [PLD 1972 S.C. 81] as follows:

*"The ultimate conviction and incarceration of a guilty person can repair the wrong caused by a mistaken relief of interim bail granted to him, but no satisfactory reparation can be offered to an innocent man for his unjustified incarceration at any stage of the case albeit his acquittal in the long run".*

In the light of the facts and circumstances of the present case, refusal of bail will tantamount to punishing the petitioner.

8. In the circumstances as mentioned above, this petition is allowed and the petitioners are admitted to bail, subject to furnishing bail

bonds in the sum of Rs.100,000/- (Rupees one hundred thousand only)  
with one surety in the like amount to the satisfaction of the learned trial  
Court.

Needless to mention that the observations recorded in the  
instant petition are based on tentative assessment, which  
will obviously not prejudice the proceedings before the  
learned trial Court.

**(CHIEF JUSTICE)**

*Asad K/\**