

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD. **JUDICIAL DEPARTMENT.**

Criminal Misc. No. 651/B/2020.

Mazhar Kiani

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.
	06.05.2020.	Mr. Naveed Shehzad Ch., Advocate for petitioner. Mr. Muhammad Sohail Khursheed, State Counsel. Arshad, Inspector/SHO and Niaz, ASI, P.S. Tarnol, Islamabad. Complainant in person.

Through this Crl. Misc. petition, the petitioner has applied for post-arrest bail in case FIR No.458, dated 07.10.2019, U/Ss 392/411 PPC, P.S. Tarnol, Islamabad.

2. Brief facts referred in the instant FIR registered on the complaint of Usama Naeem Khan are that on 07.10.2019 at about 03:15 p.m. three persons aged about 25 to 40 years visited his house in order to hire basement and posed themselves as Government servants. They again came at about 04:15 p.m. to settle the matter so they called them inside the house, one of them was bulky and wearing black colour shalwar qameez, second one was slim, wearing boski shalwar qameez and third one was wearing blue colour clothes, as soon as they entered in the house they pointed their pistol and tied the complainant and his family with rope and snatched 09 tola gold jewelry, cash amount Rs.1,00,000/-, MAC Laptop and fled away in their white

corolla car having green colour number plate.

3. Learned counsel for the petitioner contends that petitioner is innocent and has falsely been implicated in this case, even he has not been identified by the witnesses of this case during identification parade; that total recovery in this case is approximately Rs.4,00,000/- which is beyond the looted amount as alleged by the complainant in the FIR and as such case falls within the concept of further inquiry; that mere pendency of other criminal cases against the petitioner is no ground to refuse the bail application.

4. Conversely, learned State Counsel alongwith complainant contends that petitioner has been identified during the course of identification parade with specific role and he is also involved in other criminal cases of similar nature, therefore, he is not entitled for concession of post-arrest bail.

5. Arguments heard, record perused.

6. Tentative assessment of record reveals that petitioner has been involved in case FIR No.458, dated 07.10.2019, U/S 392/411 PPC, P.S. Tarnol, Islamabad with the specific role of committing armed robbery.

7. The record reflects that petitioner was arrested on 27.10.2019 and was identified during the course of identification parade held on 15.11.2019, even challan has been submitted in the Court on 24.12.2019 and charge has been framed but due to Covid-19 pandemic trial is not in progress. Rs.1,00,000/- and four gold

bangles were recovered from the petitioner on 18.12.2019 and petitioner is operating in a gang alongwith other co-accused. The police record reflects that 19 other criminal cases of armed robbery have been registered against the petitioner, whereas 10 cases are from Islamabad jurisdiction. I.O states that petitioner was convicted in some of the cases but record is not yet available.

8. The entire background of the case reflects that petitioner is hardened and desperate criminal involved in number of cases, although pendency of cases is no ground for refusal of bail as highlighted in 2010 YLR 624 (Mustansar Yousaf Sukhera Vs. State) but this aspect has to be seen in the light of facts and circumstances of each case, especially when petitioner is *prima-facie* connected with hideous offence by way of recovery and even there is no ill will or malafide on the part of complainant, who has identified the petitioner in jail during the course of identification parade, therefore, no case of bail is made out on merits and the same is hereby dismissed. However, at this stage, while relying upon 2011 SCMR 1332 (Rehmat Ullah Vs. The State), learned trial Court seized with the matter is directed to conclude the trial within period of six (06) months after resumption of Court work, suspended due to Covid-19 pandemic.

(MOHSIN AKHTAR KAYANI)
JUDGE