

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD. JUDICIAL DEPARTMENT.

Criminal Misc. No. 454/B/2019.

Adnan Murtaza Satti

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.
	27.08.2019.	Malik Tanveer ul Hassan, Advocate for petitioner. Barrister Ayesha Siddique Khan, State Counsel. Ch. Zafar ali Warriach, Advocate alongwith complainant/ respondent No.2. Malik Naeem, SP (Rural), Islamabad. Darya Khan, S.I., P.S. Khanna, Islamabad.

Through this Crl. Misc. petition, the petitioner has applied for post-arrest bail in case FIR No.15, dated 10.01.2018, U/S 406 PPC, P.S. Khanna, Islamabad.

2. Brief facts referred in the FIR registered on the complaint of Amanat Ali are that on 03.12.2012 he alongwith his maternal nephew Muhammad Ashraf handed over two vehicles (1) Suzuki pickup registration No.CH-3205, CNG fitted Engine No.584546, Chassis No.18572, Model 1989 (2) Suzuki pickup registration No.RIR-5689, Engine No.108259, Chassis No.212130, Model 1992 to Adnan Satti (present petitioner) through an agreement on monthly rent of Rs.36,000/-. However, the said vehicles were misappropriated and neither returned nor paid monthly rent. The complaint was filed in P.S. Khanna, Islamabad, where-after parties had entered into compromise dated 17.01.2017, as a result whereof petitioner has to pay due amount of

Rs.13,40,000/- in two installments, however, petitioner has refused to acknowledge the terms of agreement and misappropriated the vehicles.

3. Learned counsel for the petitioner contends that petitioner is no more required for the purposes of investigation, who was taken into custody on 05.04.2018 for the first time and was granted post-arrest bail on the basis of compromise but later on he failed to appear before the Court and his non-bailable warrants of arrest were issued as a result whereof he was again taken into custody on 08.05.2019; that challan has been submitted in the Court and as such maximum sentence under the law in terms of Section 406 PPC is imprisonment for 03 years, whereas bail is rule and refusal is exception in such like cases.

4. Conversely, learned counsel for the complainant as well as learned State Counsel contend that vehicles in question have not yet been recovered and petitioner is directly linked with the alleged crime, therefore, he is not entitled for concession of post-arrest bail.

5. Arguments heard, record perused.

6. From the cursory glimpse of record, it reveals that petitioner has allegedly misappropriated two Suzuki pickup vehicles of the complainant which were given to him through an agreement on monthly rent of Rs.36,000/-.

7. The tentative assessment of record reveals that parties had entered into settlement through earlier

compromise dated 17.01.2017 and petitioner was agreed to pay due rent, however, said terms were not complied with by the petitioner, who was arrested in the instant matter on 05.04.2018. Petitioner was granted post-arrest bail vide order dated 08.04.2018 on the basis of second compromise, before the Court.

8. The petitioner after grant of bail has failed to appear before the trial Court and proceedings U/S 87 Cr.P.C. were initiated, as a result whereof he was declared proclaimed offender on 02.11.2018 and was again taken into custody on 08.05.2019. I.O in attendance states that he has submitted the challan in the Court and trial is in progress. The offence with which petitioner has been charged does not fall within the prohibitory clause of Section 497 Cr.P.C. Even otherwise, I.O has not investigated the matter in accordance with law as he has not taken any proof of ownership of the vehicle in question, nor recovered the vehicle through which it could be prima-facie established that complainant is lawful owner of the vehicles in question, hence, matter falls within the purview of further inquiry in terms of Section 497(2) Cr.P.C., therefore, instant post-arrest bail application is allowed, subject to furnishing of bail bonds in sum of Rs.2,00,000/- (Rupees Two Lac only) with one surety in the like amount to the satisfaction of learned trial Court with further direction to the petitioner to submit his undertaking before the trial Court that he will appear

before the trial Court on each and every date of hearing
till conclusion of the trial.

(MOHSIN AKHTAR KAYANI)
JUDGE

Zahid