

HCJD/C-121  
**ORDER SHEET**

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

**Crl. Misc. No. 659-B of 2020.**

**Zohaib**  
*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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11-05-2020. Mr Farhat Ullah Jan Advocate, for the petitioner.  
Mr M. Atif Khokhar, State Counsel.  
Mr Zulfiqar, ASI with record.

The petitioner Sohaib son of Sahibzada has sought post arrest bail in case F.I.R. No. 197, dated 11.05.2019, registered under sections 392/411 of Pakistan Penal Code, 1860 (hereinafter referred to as "**PPC**") at Police Station Koral, Islamabad.

2. Brief facts as alleged in the FIR are that on 08.05.2019 while the complainant was withdrawing cash from ATM, two unknown persons forcibly snatched cash amount of Rs.16,000/- and a mobile phone. Hence the instant FIR.

3. The learned counsel for the petitioner has contended that; the allegations against the petitioner are false, frivolous and baseless; the latter has been falsely involved in the instant case with malafide intention and ulterior motives; the petitioner has not committed the alleged offences; that the recovery has been planted against the petitioner;

investigations qua the petitioner have been completed and he is no more required for the purposes thereof; offences do not fall within the prohibitory clause of section 497 of Cr.P.C.; there is no chance of abscondance of the petitioner or tampering with the prosecution evidence; the petitioner has no criminal record; the petitioner is not nominated in the FIR; report under section 173 of Cr.P.C. has been submitted before the learned trial Court; the prosecution witnesses are false; the occurrence is highly doubtful; no direct evidence is available on the record against the petitioner; the co-accused has been enlarged on bail and keeping in view rule of consistency, the petitioner is also entitled to the same relief; the case against the petitioner comes within the purview of further inquiry; there was no resistance during the occurrence; identification parade was not conducted in accordance with law; story as narrated in the FIR is false; mere recovery does not constitute an offence under section 392 PPC, hence urges for the grant of post arrest bail.

4. The learned State Counsel has appeared alongwith Zulfiqar ASI. They were unable to establish that the petitioner does not deserve bail on the basis of principle of consistency and that the identification parade was conducted in accordance with the law.

5. The learned counsels for the petitioner and the learned State Counsel have been heard and record perused with their able assistance.

6. Perusal of record reveals that the alleged occurrence had taken place on 08.05.2019, whereas the instant case was registered on 11.05.2019 i.e. after a delay of three days. The delay has not been

explained. The petitioner was arrested in the instant case on 01.12.2019 i.e. after a period of seven months. Whether or not the identification will sustain requires further probe because all the alleged accused were presented for identification at the same time. The role of the petitioner and his involvement requires further probe. Investigations qua the petitioner have been completed and he is no more required for the purposes thereof. The role of the petitioner definitely requires further probe. The co-accused of the petitioner has been enlarged on bail and on the touchstone of principle of consistency the petitioner is also entitled to the same relief. The petitioner has been incarcerated for the last more than five months. In the facts and circumstances of the instant case, the continued incarceration of the petitioner is not likely to serve any useful purpose at this stage.

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".*

8. In the circumstances as mentioned above, this petition is ***allowed*** and the petitioner is ***admitted*** to bail, subject to furnishing bail bonds in the sum of Rs.1,00,000/- (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)**

*Tanveer Ahmed.*