

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Crl. Misc. No.786/B/2019

Rehmat Shah

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.
(02)	26.12.2019	Mr. Imran Farooq, Advocate for the petitioner. Barrister Ayesha Siddique Khan, State Counsel. Muhammad Riaz Noon, ASI, P.S Shehzad Town, Islamabad.

MOHSIN AKHTAR KAYANI J. Through the instant petition, the petitioner has applied for his post arrest bail in case FIR No.219/15, dated 12.07.2015, under section 396/412, P.S Shehzad Town, Islamabad.

2. Brief facts referred in the instant FIR lodged on the complaint of respondent No.2/ Ghulam Abbas Shah are that he is running a Store with the name of Al-Syed Super Mart General Store in the vicinity of Shahzad Town and has hired Security Guard namely Gulzar Khan from a Security Company, he alongwith one person Adnan Shah (real son of the complainant) and Malik Tahir, Distributer of Norus Company Islamabad on 12.07.2015 at about 10:00 p.m were present at the Store, four persons armed with .30 bore pistol entered in the Store, who forced the complainant son Adnan Shah to sit on the floor and the other persons snatched the cash from the

counter and the other two armed personnel snatched cash amounting to Rs. 80,0000 to Rs. 90,000/- from Malik Tahir, distributor, however, three armed persons amongst the accused detained the Security Guard and snatched the .12 bore shotgun and committed the murder of Security Guard. All the accused persons also snatched mobile phone, cash, driving license, ATM Card of Mudassir Shah, who was the driver of Distributor Malik Tahir, whereafter they all fled away from the scene with .12 bore shotgun.

3. Learned counsel for the petitioner contends that petitioner is innocent and has falsely been implicated in this case, who is not nominated accused in this case nor any incriminating article was recovered from him. He further contends that petitioner has not been identified during the course of identification parade as the identification witnesses have not joined the proceedings. He further contends that the challan has not yet been submitted in the Court and he is no more required for the purpose of investigation.

4. Conversely, learned State Counsel alongwith Investigation Officer contend that the petitioner is involved in the hideous crime of murder and has committed the murder of Security Guard Gulzar Khan while committing robbery in a desperate manner. He further contends that two of the accused persons have already been convicted by the learned

Trial Court, whereas two accused persons including the present petitioner are facing the trial.

5. Arguments heard, record perused.

6. From the perusal of record, it reveals that petitioner is nominated as accused in criminal case FIR No.219/15, dated 12.07.2015, under section 396/412, P.S Shehzad Town, Islamabad, in which one Gulzar Khan, Security Guard was done to death during the robbery by four unknown persons armed with .30 bore pistol, who have snatched the cash from the counter as well as from the eye-witness present in the General Store alongwith their SIMs and the shotgun of the Security Guard.

7. Tentative assessment of record reflects that all the accused persons have committed act of murder and robbery in a desperate manner, whereas two of the accused persons in this case namely Rahim Dad and Amir Sohail were arrested in the earlier round of proceedings and they have been convicted by the learned Trial Court. The present petitioner was arrested on 10.08.2019 after the delay of more than five (05) years, therefore, no recovery has been effected from him, similarly the identification proceedings has not been conducted till date, due to non-availability of PWs.

8. In this backdrop, the petitioner is prima facie linked with the alleged crime on the basis of investigation conducted by the Investigation Officer, whereby the role of petitioner with the other

co-accused, is at par, who have been convicted in the instant case.

9. In view of above scenario, the fugitive offender is not entitled for the normal concession in such type of cases. The offence with which the petitioner has been charged falls within the prohibitory clause of Section 497 Cr.P.C., therefore, the grant of bail in such type cases is an exception.

10. In such like situation, the bail should not be granted and it would be appropriate to issue direction to the learned Trial Court to conclude the trial within a specific period. Reliance is placed upon **2011 SCMR 1332 (Rehmatullah Vs. The State and another).**

11. For what has been discussed above, instant criminal miscellaneous petition stands **dismissed.** However, learned Trial Court seized with the matter is directed to conclude the trial within Six (06) months under intimation to this Court.

(MOHSIN AKHTAR KAYANI)
JUDGE

RAMZAN