

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

**Criminal Misc. No. 655/B/2020.**

Mir Akbar

*Versus*

Muhammad Pervaiz, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	14.05.2020.	Mr. Zeeshan Gohar, Advocate for petitioner. Mr. Muhammad Sohail Khursheed, State Counsel. Mr. Ashiq Hussain Tarar and Mr. M Ayaz Gondal, Advocates for complainant/respondent No.1. Abdul Sattar Baig, Inspector/SHO P.S. Nilore, Islamabad.

Through this Crl. Misc., petitioner has applied for post-arrest bail in case FIR No.153, dated 04.04.2018, U/S 302/411/34 PPC, P.S. Golra Sharif, Islamabad, lodged on the complaint of respondent No.1, who alleged that his son Waqar Ahmed, aged about 21 years was a Careem Taxi driver, who on 04.04.2018 was coming with his younger son on Honda 125 CC motorcycle from Sara-e-Kharbooza, Tarnol from the house of his wife's aunt and met an accident near chungi No.26 bus stop when bus hit him from behind. Waqar Ahmed informed the complainant as well as his father in law regarding the altercation of hot words with driver and conductor of that bus, however, complainant got resolved the issue of his son with driver and conductor of bus but all of sudden one person who was passenger of bus abused his son and drawn .30 bore

pistol, made 3/4 straight fire upon his son, who fell down and accused fled away from the scene.

2. Learned counsel for the petitioner contends that petitioner is innocent and has falsely been implicated in this case who was not nominated in the FIR and even no source or incriminating material or evidence has been suggested by the prosecution to connect the petitioner with hideous crime of murder; that petitioner has been nominated through supplementary statement on 04.02.2020 after two years of the alleged occurrence by the complainant without any basis; that challan has been submitted against the petitioner and he is no more required for the purposes of investigation, therefore, he is entitled to be released on bail.

3. Conversely, learned State Counsel as well as learned counsel for the complainant contend that petitioner has been identified after a long investigation and even weapon of offence i.e. pistol has been recovered on his pointation, which has been matched with fire empty recovered from place of occurrence after the alleged murder and report to that effect is available on record; that petitioner has been identified by complainant as well as father in law of deceased.

4. Arguments heard, record perused.

5. The tentative assessment of record reveals that petitioner has been nominated as accused in the above mentioned FIR through supplementary statement on 04.02.2020 by the complainant/father of deceased i.e.

after a delay of almost two years from the date of incident. Record reflects that deceased Waqar Ahmed was murdered after a road accident dispute on 04.04.2018 within the territorial jurisdiction of P.S. Golra Sharif, Islamabad by one unknown person in presence of complainant and father in law of deceased.

6. As per supplementary statement of complainant he himself traced out the accused/present petitioner in this case with the help of CCTV footage and identified the petitioner as principal accused, who has committed the murder, although there was no description provided by the complainant in the entire case and even I.O has not confirmed any CCTV footage at this stage, nor the same has been demonstrated before this Court as part of challan.

7. I.O has highlighted the fact that he recovered .30 bore pistol on pointation of the petitioner/accused, which has been matched with fire empties recovered from place of occurrence. Such delayed recovery has its own effect, which could be seen at the trial. No description of the accused person has been given by the complainant, who claims to be the eyewitness of the case, even no record of identification parade has been brought on record, therefore, evidentiary value of any CCTV footage would only be considered during the trial and at this stage a reasonable ground of further inquiry in terms of section 497(2) Cr.P.C comes into play to rescue the petitioner. The prosecution is not able to refer

any legally admissible piece of evidence to connect the petitioner with the commission of alleged offence, therefore, recovery of pistol on pointation of accused is yet to be appreciated. Reliance is placed upon 2020 SCMR 423 (Hidayat Khan Vs. The State and another).

8. In view of above, instant petition is allowed and the petitioner is admitted to post arrest bail subject to furnishing of bail bonds in the sum of Rs.2,00,000/- (Rupees Two Lac only) with two sureties in the like amount to the satisfaction of learned trial Court.

(MOHSIN AKHTAR KAYANI)  
JUDGE

Zahid