

HCJD/C-121
ORDER SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

CRL. MISC. NO. 941-B of 2020.

Adnan Khuram.

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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07.09.2020. Mr Fakhar Abbas Naqvi, Advocate for the petitioner.
Ms Ayesha Siddique Khan, State Counsel.
Mr Younas Khan, complainant in person.
Mr Fakhar Abbas, SI with record.

The petitioner Adnan Khuram son of Gulastar Khan has sought post arrest bail in case, F.I.R. No. 54, dated 02.02.2020, registered under section 364-A/302 of the Pakistan Penal Code 1860 (hereinafter referred to as "**PPC**") at Police Station Koral, Islamabad.

2. The brief facts, as alleged in the FIR are that on 01.02.2020 at about 10:00 a.m. son of the complainant namely, Usman left the house by misstating to his mother that he was going to school to attend a function but he did not return. Hence the instant FIR. The dead body of the victim was found later.

3. The learned counsel for the petitioner has contended that; allegations against the latter are false, frivolous, baseless and concocted; story as narrated in the FIR is false; offences are not attracted against the petitioner; the petitioner has no concern whatsoever with the alleged offences; no role has been attributed to the present petitioner; the

petitioner is not nominated in the FIR; the petitioner has been involved in the instant case with malafide intention and ulterior motives; investigations qua the petitioner have been completed and he is no more required for the purposes thereof; further detention of the petitioner will not serve any useful purpose; the petitioner is innocent; the petitioner has no criminal record; there is no chance of abscondance of the petitioner or tampering with the prosecution evidence; no incriminating material was affected from the petitioner; there is no evidence against the petitioner; the petitioner has been incarcerated for more than six months; no offence has been made out against the present petitioner; recovery if any is fake and planted; there is no eye witness of the alleged occurrence; the petitioner has not committed the alleged offences; report under section 173 of Cr.P.C. has been submitted before the learned trial Court; it is a case of further inquiry; hence urges for the grant of post arrest bail.

4. The learned State Counsel assisted by the complainant has appeared alongwith Fakhar Abbas, SI. They have opposed the grant of bail. They have argued that; the petitioner has committed a heinous offence and therefore, does not deserve the concession of bail; there is no delay in lodging of the FIR; report under section 173 of Cr.P.C. has been submitted before the learned trial Court; recovery has been affected; investigations qua the petitioner have been completed and trial of the case will commence shortly; the offences fall within the prohibitory clause of section 497 of Cr.P.C.; the petitioner does not deserve any leniency, hence prayed for dismissal of the instant bail petition.

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

6. Initially when the complaint was filed, the petitioner was not nominated. Later, the complainant got recorded his supplementary statement wherein he narrated facts, which were contrary to his version stated in his complaint. The petitioner was arrested solely because the main accused had named him. There is no other incriminating material collected against the petitioner during the course of investigations. It is alleged that the petitioner had made calls to the complainant. However, there is nothing on record to connect the petitioner with the commission of crime. The role of the present petitioner and his involvement definitely requires further probe. The investigations qua the petitioner have been completed and he is no more required for the purposes thereof. The report under section 173 of Cr.P.C. has been submitted before the learned trial Court. However, charge has not been framed as yet. The petitioner has been incarcerated for more than six months and further incarceration of the petitioner will not serve any useful purpose. There is nothing on record to show that the petitioner has a criminal record or that there is an apprehension that he may abscond if released on bail. In the facts and circumstances of the instant case, this Court is satisfied on the basis of tentative assessment that a case for releasing the petitioner on bail is made out.

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”.

In the light of the facts and circumstances of the present case, refusal of bail will tantamount to punishing the petitioner.

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

*Asad K/**