

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

Crl. Misc. No.775-B/2020
Muhammad Junaid
versus
The State & another

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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03.07.2020	Mr. Muhammad Shahzad Siddique, Advocate for petitioner. Mr. Aftab Ali Ahsan, Advocate for Respondent No.2/Complainant Mr. Hasnain Haider Thaheem, State Counsel. Muhammad Baig, S.I., P.S. Koral, Islamabad.
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MOHSIN AKHTAR KAYANI, J: Through this criminal miscellaneous petition, the petitioner has prayed for his post-arrest bail in case FIR No.458, dated 26.09.2019, under Section 392/395/412 PPC, P.S. Koral, Islamabad.

2. Brief facts as referred in the instant case are that the aforesaid FIR No.458/2019 has been registered on the complaint filed by Zulfiqar Ali (respondent No.2) having allegations that on 15.09.2019, at about 08:40 a.m., he had received a phone call from his home informing him that four dacoits had entered his house and looted away cash amount of Rs.95,000/-, four mobile phones, laptop and a handbag on gun point and fled away from the scene on a motorcycle (Honda 125 – Red Colour) having no number plate mounted as well as on Suzuki Wagon-R (white) bearing registration No.FU-387. However, the present petitioner was arrested in another criminal case i.e. FIR No.34, dated 06.02.2020, under Section 395/402 PPC, P.S. Lohi Bher, Islamabad, who during the investigation had disclosed his involvement in the instant case, whereafter he was put to identification parade, whereby he was accurately identified by the complainant side.

Whereas, the petitioner applied for his post arrest bail before the learned Judicial Magistrate (Section 30), Islamabad and Additional Sessions Judge (East), Islamabad, which were dismissed vide orders dated 13.04.2020 and 10.06.2020, respectively. Hence, the captioned bail application.

3. Learned counsel for petitioner contends that petitioner is innocent and has falsely been involved in the instant case; that one of the co-accused namely Sabir Hussain has been enlarged on bail by learned Additional Sessions Judge (East), Islamabad, therefore, petitioner is also entitled for grant of concession of bail on the principle of consistency; that no recovery whatsoever is effected from the petitioner and as such, petitioner is not nominated in the instant FIR as he was neither present at the scene of occurrence at the relevant time nor he has got any direct involvement in the case, which makes the case of further inquiry.

4. Conversely, Learned counsel for respondent No.1 i.e. complainant opposed the filing of instant bail application and contends that the petitioner was rightly identified by eyewitness during the identification parade, regarding which the petitioner had not even raised any objection; that some of the looted articles have been recovered on the pointation of petitioner and sufficient incriminating material is available on record for connecting the petitioner with the commission of offence.

5. Arguments heard, record perused.

6. Tentative assessment of the record reveals that the petitioner has been found involved in criminal case FIR No.458, dated 26.09.2019, under Sections 395/412 PPC, Police Station Koral, Islamabad with the allegations that he along with other co-accused persons entered in the house of Respondent No.2 on 15.09.2019 and snatched away mobile

phones, laptop, cash amounting to Rs.95,000/- and even assaulted the wife and minor children of the complainant, whereafter he along with other co-accused persons fled away on a motorcycle (Honda 125 – Red Colour) having no number plate mounted as well as on Suzuki Wagon-R (white) bearing registration No.FU-387.

7. Cursory glimpse of record further reveals that petitioner is involved in heinous offence of armed dacoity, whereby four persons entered in the house while the fifth one remained outside the premises safeguarding the other co-accused persons.

8. During the course of investigation, mobile phones have been recovered on the pointation of petitioner, which *prima facie* connects the petitioner with said crime, even he has been identified in identification parade on 14.02.2020 in Adiala Jail, Rawalpindi. The record further reflects that three (03) other criminal cases are registered against the petitioner in P.S. Lohi Bher, Islamabad on similar charges.

9. Learned counsel for petitioner has mainly argued that one of the co-accused person has been granted post arrest bail by the learned Additional Sessions Judge and as such, petitioner is entitled for concession of bail on the ground of consistency, however on the other side, record reflects that this Court, vide order dated 21.12.2019, passed in Crl. Misc. No.778-B/2019, has already rejected bail of co-accused Muhammad Amir and passed direction for early conclusion of the trial within six (06) months, which was not taken into account by the learned Additional Sessions Judge, hence the ground of consistency is not legally justified.

10. As such, the challan has been submitted in the court and the offence with which the petitioner has been charged falls within the prohibitory clause of Section 497 Cr.P.C.,

even otherwise, no ground of further inquiry is visible on record, therefore, instant petition is meritless and same is hereby **DISMISSED**.

11. However, while considering the analogy drawn from case reported as **2011 SCMR 1332 (Rehmat Ullah vs. The State)**, the learned Trial Court seized with the matter is directed to conclude the trial within the period of 06 months i.e. on or before 31.12.2020 despite the ongoing lockdown imposed due to Covid-19 Pandemic. However, if the accused persons could not be produced from jail before the learned Trial Court, their presence shall be ensured through video link and all the proceedings should be conducted with the help of video link facility to ensure timely conclusion of the case within the prescribed period, under intimation to this Court.

(MOHSIN AKHTAR KAYANI)
JUDGE

Khalid Z.