

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

**CRL.MISC. NO.65-B /2020**

**Zabih Ullah Vs The State & another**

<b>Serial No. of order/ proceeding.</b>	<b>Date of order/ proceedings</b>	<b>Order with signatures of judge, and that of parties or counsel, where necessary.</b>
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(03)

14.02.2020

Mr. Farhat Ullah Jan, Advocate for petitioner.  
Nemo for the complainant.  
Mr. Zohaib Hassan Gondal, State counsel with Muhammad Mumtaz SI & Muhammad Fayyaz ASI, P.S Golra Sharif, Islamabad.

**GHULAM AZAM QAMBRANI, J**

The petitioner [Zabih Ullah] seeks post arrest bail in case FIR No. 353/2019, dated 02.08.2019, under sections 392, 411 PPC, & Section 14 of Foreigners Act, registered at Police Station Golra Sharif, Islamabad.

2. Brief facts of the case are that the complainant [Muhammad Irshad] lodged a complaint against the petitioner on 30.07.2019 at about 8:00 PM, stating therein that he was coming from Chungi No. 26 and when he reached service road Sector G-13/4 where three persons, who were riding on a motorcycle Honda 125, two persons out of them were armed with 30-bore pistols, forcibly stopped him and snatched his mobile phone Samsung Galaxy without SIM, Q-mobile and valet containing his driving licence, coloured copy of CNIC, visiting cards and cash amounting to Rs 45,000/-. Thereafter, on 02.08.2019 when the complaint went to PIMS hospital to see his sick friend, he identified the accused/ petitioner, involved in the commission of offence, hence the instant FIR.

3. The petitioner applied for post arrest bail before the learned Court of Judicial Magistrate Section-30, Islamabad which was rejected vide order dated 02.09.2019. Thereafter, the petitioner/ accused applied for bail after arrest before the learned

family member and petitioner are present in NADRA record; that the petitioner is previously non-convict and case of present petitioner falls within the ambit of Section (2) of Section 497 Cr.PC.

4. On the other hand, learned State counsel vehemently opposed the grant of bail to the petitioner contending that mobile phone and pistol have been recovered from the petitioner/accused, therefore, the petitioner is not entitled for concession of bail.

5. After hearing arguments, I have minutely perused the record.

6. Tentative assessment of the record shows that the FIR was lodged after an unexplained and inordinate delay of two days; that no specific role is attributed to the petitioner nor the features of the alleged accused persons are mentioned in the FIR, no detail and number of the currency notes has been described in the FIR. As such case of the petitioner becomes that of further inquiry. The accused/ petitioner is behind the bar for the last more than seven months. No useful purpose would be served to the prosecution to keep the petitioner behind the bars for an indefinite period.

7. Deeper appreciation of the evidence is neither desirable nor permissible at bail stage. The guilt of accused is yet to be determined by the learned Trial Court after recording of the evidence. The Hon'ble Supreme Court of Pakistan, in the case reported as "Manzoor & 4 others Vs The State" [ **PLD 1972 Supreme Court 81**], has observed as follows:-

"It is important to remember that bail is not to be withheld as a punishment. There is no legal or moral compulsion to keep people in jail merely on the allegation that they have committed offences punishable with death or transportation, unless reasonable grounds appear to exist to disclose their complicity. 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. 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.

9. In view of the above facts and circumstances, this petition is allowed subject to furnishing surety bonds of Rs.2,00,000/- ( Two lacs) with two sureties, in the amount of Rs.1,00,000/- each, to the satisfaction of learned Trial Court.

10. It is needless to mention here that the observations made hereinabove are tentative in nature and shall not design to influence the trial.

(GHULAM AZAM QAMBRANI)  
JUDGE

S.Akhtar