

## **ORDER SHEET.**

### **IN THE ISLAMABAD HIGH COURT, ISLAMABAD.** **JUDICIAL DEPARTMENT.**

**Criminal Misc. No. 646/B/2020.**

Rashid Mehmood

Versus

The State, etc.

<b>S. No. of order/ proceedings</b>	<b>Date of order/ Proceedings</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
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06.05.2020.	Raja Muhammad Hamid, Advocate for petitioner. Mr. Muhammad Sohail Khursheed, State Counsel. Muhammad Sagheer representative of GPO. Tariq Rauf, SI, CIA, Islamabad.
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Through this Crl. Misc. petition, the petitioner has applied for post-arrest bail in case FIR No.236, dated 01.10.2019, U/S 395/411/412/75 PPC, P.S. Shehzad Town, Islamabad.

2. Brief facts referred in the instant FIR registered on the complaint of Muhammad Ejaz Paracha are that on 01.10.2019 at about 09:30 a.m., he being the Post Master of Rawal Town Post office alongwith Pervez Akhtar Cash overseer, Farzand Hussain Security Guard, Ghulam Abbas Security Guard, Muhammad Ayub Driver were going towards Nilore Line post office for delivery of cash amount Rs.1,94,10,000/- in the official vehicle No.GA-121 and when they reached near Rawal Town Post Office at about 10:20 a.m. 06 armed dacoits on three motorcycles came there and snatched Rs.1,53,60,000/- alongwith official weapons from security guards and fled away.

3. Learned counsel for the petitioner contends that

petitioner is innocent and has falsely been implicated in this case and there is no evidence against the petitioner for his involvement in such type of crime as he was under treatment in the hospital due to his ailing condition and even he could not walk due to health issues and in this regard record of Benazir Bhutto Hospital, Rawalpindi for the month of December, 2019 has been placed on record; that petitioner was convicted in another case and his sentence has been suspended on medical ground, therefore, his involvement in such type of cases is next to impossible; that petitioner's identification parade has been managed in violation of settled principles of law and even he has not been identified by the driver in the same case.

4. Conversely, learned State Counsel contends that petitioner is well connected with the hideous crime as recovery of amount has been affected from him on his pointation and challan has been submitted in the Court, therefore, he is not entitled for concession of bail rather it is better to issue direction to the trial Court for early conclusion of the trail.

5. Arguments heard, record perused.

6. Tentative assessment of record reveals that petitioner is involved in the armed dacoity committed in broad day light in which an amount of Rs.1,53,60,000/- was snatched and petitioner was arrested in this case on 02.01.2020, and has been identified during the course of identification parade held on 10.01.2020. On pointation

of petitioner an amount of Rs.10,00,000/- was recovered. I.O completed the investigation and submitted the challan on 06.02.2020.

7. The record further reflects that an amount of Rs.57,00,000/- was recovered from total seven accused persons alongwith two motorcycles in this case. It is also important to mention here that petitioner was convicted in criminal case FIR No.361, dated 13.11.2017, U/S 397 PPC, P.S. Kallar Syedan, Rawalpindi by the Court of learned Judicial Magistrate Section 30, Kallar Syedan vide judgment dated 14.02.2019 and sentenced to Seven years R.I., however, his sentence was suspended by the Lahore High Court, Rawalpindi Bench, Rawalpindi on medical ground but despite such condition he was again involved in similar type cases.

8. Learned counsel for the petitioner has vehemently argued his case on medical ground as well as on merits at the same time and tried to convince this Court that petitioner has medical issues, unable to walk and highlighted the case on the strength of record of Benazir Bhutto Hospital, Rawalpindi prepared on 13.12.2019.

9. I have gone through the medical record appended with this petition which refers left leg weakness from six months and the same was partially recovered as there is partial thrombosis of pulmonary Artery, which has been catered in the hospital through oral medication, even no surgery has been suggested

whereas all other medical facilities have been extended to the petitioner. The petitioner is young man of 32 years of age and getting required treatment and as per record, petitioner is not suffering from any contagious disease, the treatment of which is not available in jail hospital or he requires surgery or is sick or infirm person and as such doctor has not opined that continuous incarceration of accused would prove detrimental to his life or health, hence, he is not entitled for concession of post-arrest bail. Reliance is placed upon PLD 2017 SC 194 (Khalid Humayun Vs. The NAB through D.G. Quetta).

10. Similarly, petitioner/accused after his earlier treatment in now fit person, who could not claim his medical condition as ground for post-arrest bail. Reliance is placed upon 2010 SCMR 576 (Dadio Vs. Sobharo). Even otherwise, when the accused is getting proper treatment either in hospital or jail he would not be entitled for grant of bail. Reliance is placed upon PLD 2005 SC 364 (State Vs. Haji Kabeer Khan).

11. The petitioner is prima-facie connected with hideous crime which falls within the ambit of prohibitory clause of Section 497 Cr.P.C. and petitioner is operating in gang, even other cases of similar nature have been registered against him and was also convicted in similar case, therefore, he is not entitled for concession of post-arrest bail at this stage.

12. In view of above, instant post-arrest bail

application is hereby ***dismissed***. However, while relying upon ***2011 SCMR 1332 (Rehmat Ullah Vs. The State)***, learned trial Court seized with the matter is directed to conclude the trial within period of six (06) months after resumption of Court work, suspended due to Covid-19 pandemic.

(MOHSIN AKHTAR KAKANI)  
JUDGE

Zahid