

HCJD/C-121
ORDER SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

Crl. Misc. No. 753-B of 2020.

Imran Khan.
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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17.06.2020. Mirza Nabeel Tahir, Advocate for the petitioner.
Mr Waqar Imran and Malik Saleh Muhammad, Advocates for
the complainant.
Mr Zohaib Hassan Gondal, State Counsel.
Mr Ejaz Gujjar, ASI with record.

The petitioner Imran Khan son of Abdul Aziz has sought post
arrest bail in case, F.I.R. No. 03, dated 17.01.2020, registered under
sections 324, 337-F(ii) and 337-F(v) of the Pakistan Penal Code 1860
(hereinafter referred to as "**PPC**") at Police Station Shams Colony,
Islamabad.

2. The brief facts, as narrated in the FIR, are that the petitioner
after trespassing property of the complainant fired at him and as a
consequence he sustained injuries on his leg. Hence the instant FIR.

3. The learned counsel for the petitioner has contended that;
the latter has been falsely involved in the instant case with malafide
intention just to harass and humiliate him; the petitioner is innocent and
has not committed the alleged offence; no specific role or injury has been
attributed to the petitioner; no motive has been narrated in the FIR;
offences are not attracted against the petitioner; there is no witness

against the petitioner except the complainant; place of occurrence is a public place; the petitioner is entitled to the concession of bail under section 497(ii) of Cr.P.C.; no incriminating material was recovered from the petitioner; the petitioner has been incarcerated for more than three months; investigations qua the petitioner have been completed and he is no more required for the purposes thereof; the petitioner has no criminal record; story as narrated in the FIR is false, frivolous and vexatious; the injuries are on the non-vital part of body; ingredients of alleged sections are not attracted against the petitioner; incomplete report under section 173 of Cr.P.C. has been submitted before the learned trial Court; there is no probability that the petitioner will abscond or tamper with the prosecution evidence; there is no direct or indirect evidence against the petitioner regarding the alleged commission of offence; the case against the petitioner is that of further probe; hence urged for the release of the petitioner on bail.

4. The learned State Counsel assisted by the learned counsels for the complainant appeared alongwith Ejaz Gujjar ASI. They have argued that; the petitioner is nominated in the FIR; the petitioner had attacked the complainant and injured him; report under section 173 of Cr.P.C. has been submitted before the learned trial Court; specific role has been attributed to the petitioner; recovery has been affected from the petitioner; the petitioner has committed a heinous offence; the petitioner is a hardened and desperate criminal; hence prayed for dismissal of the instant petition.

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

6. Perusal of the record shows that the alleged occurrence had taken place on 15.01.2020, whereas the instant FIR was registered on 17.01.2020 i.e. after a lapse of two days. According to the facts narrated in the FIR, persons present in the shop had over powered the petitioner. If that was so then why he was not handed over to the police alongwith the firearm weapon has not been explained. Whether or not offence under section 324 of PPC is attracted requires further probe. Incomplete report under section 173 of Cr.P.C. has been submitted before the learned trial Court. Investigations qua the petitioner have been completed and he is no more required for the purposes thereof. Charge has not been framed as yet. The petitioner has been incarcerated for more than three months and, therefore, his further incarceration will not serve any useful purpose. In the circumstances, the role of the petitioner and his involvement in the instant case definitely needs further probe. Likewise whether the offences mentioned in the FIR are attracted against the petitioner also requires probe. 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 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 vs. 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.5,00,000/- (Rupees five 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/**