

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

Crl. Misc. No.361/B/2019

Sadiq Nasir

Versus

The State, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(02)	12.06.2019	Ms. Asma Shabbir, Advocate for the petitioner. Ms. Saima Naqvi, State Counsel. Complainant in person. Zahid, S.I alongwith record.

MOHSIN AKHTAR KAYANI J. Through instant petition, the petitioner has prayed for his post arrest bail in case FIR No. 51/2019, dated 04.03.2019, U/S 392/411 PPC, P.S Secretariat, Islamabad.

2. The facts in brief are that respondent No. 2 got lodged the above mentioned FIR with the allegations that he is using his Suzuki Alto Vehicle No. LXX as taxi, on 28.02.2019, at about 02:30 a.m four young boys came to him, two boys were on motorcycle, they said that they have to go to Faizabad and fixed the fare, one boy sat on front seat and the second boy on back seat and when he crossed Lake View Park, the boy sitting on back seat stopped the vehicle and by pointing pistol on him snatched amount of Rs. 7,650/- photo copy of CNIC and photo copy of registration book and when he tried to fled away, the boy sitting on front seat of the taxi assaulted him, due to which his car hit with the blocks and got damaged. The other two persons, who were on motorcycle also reached near the car during the occurrence.

Thereafter the accused persons fled away from the scene.

3. Learned counsel for the petitioner has contended that the petitioner is innocent and has falsely been implicated in this case; that the petitioner has not been nominated in this case and alleged recovery of Rs. 5,000/- makes the case of petitioner as of further inquiry; that the petitioner was arrested on 07.03.2019, investigation has been completed and challan has been submitted before the Court; that keeping the petitioner behind the bars would not serve any useful purpose.

4. Conversely, learned State Counsel has contended that the petitioner was on motorcycle and he has been identified during identification parade; that the petitioner and his three co-accused operate in gang and snatched amount of Rs. 7,650/- from respondent No. 2.

5. I have heard the arguments and perused the record.

6. From the perusal of record, it has been observed that respondent No. 2 got lodged FIR No. 51/2019, dated 04.03.2019, U/S 392/411 PPC, P.S Secretariat, Islamabad, wherein he alleged that he was robbed on gunpoint and he was deprived from his amount of Rs. 7,650/- by two persons sitting in his Taxi Suzuki Alto Car No. L XK-950 as passengers, which was booked at midnight whereby two persons were on motorcycle. However, when car reached near Rawal Dam Park, one of the passenger asked him to stop the vehicle to answer call of nature, when he returned, he was

armed with pistol and snatched cash amount, whereas two co-accused (including petitioner), who were on motorcycle were also present at the time of occurrence. The record reveals that Rs. 5,000/- have been recovered from the petitioner.

7. Tentative assessment of the record reveals that the petitioner was identified during identification parade by respondent No. 2. Challan has been submitted before the Court, but the trial has not yet been commenced. The petitioner has not been attributed with any overt act, through which it could be assumed that he ever used weapon or snatched the amount from respondent No. 2, therefore, case of the petitioner falls within the ambit of further inquiry in terms of 497(2) Cr.P.C.

8. The alleged recovery of Rs. 5,000/- from the petitioner have to be seen at the time of trial and bail cannot be refused at this stage. The FIR has been lodged with delay and the petitioner is not nominated in this case and no information has been brought on the record as to how the petitioner has been nominated in this case through supplementary statement. Reliance is placed upon **2018 YLR 185 (Irfan and another vs. The State and another), 2014 MLD 1317 (Muhammad Rehan vs. The State), 2018 PCr.LJ 598 (Tajammal Hussain Anjum vs. The State and another), 2017 PCr.LJ Note 42 (Wajahat alias Nazim vs. The State and another), 2018 MLD 1389 (Farhan Hussain vs. The State) & 2014 MLD 1223 (Bilal vs. The State and others).**

9. Even otherwise, petitioner is entitled for grant of bail on the rule of consistency, as his case is at par with co-accused namely Shams-ur-Rehman, who has been released on bail by this Court vide order dated 06.05.2019. Reliance is placed upon case law reported as **2019 YLR 230 (Syed Aminullah Vs. The State), 2019 PCr.LJ Note 33 [Sindh] (Riaz Ahmad Khan Vs. The State (FIA), 2019 YLR 183 [Balochistan] (Abdul Nafey Vs. The State).**

10. For what has been discussed above, the instant petition is **allowed** and the petitioner is admitted to post arrest bail subject to his furnishing of bail bonds in the sum of Rs.100,000/- with one surety in the like amount to the satisfaction of learned Trial Court.

**(MOHSIN AKHTAR KAYANI)
JUDGE**

Ramzan