

Form No: HCJD/C-121.

**ORDER SHEET**

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

Crl. Misc. No. 668-B of 2020.

Ajmal

vs

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.
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19-05.2020.      Mr Hassan Zulqarnain, Advocate for the petitioner.  
Mr M. Atif Khokhar, State Counsel.  
Mr Sarfaraz Ahmed, ASI with record.

The petitioner Ajmal son of Sarfraz has sought post arrest bail in case F.I.R. No. 47, dated 14-02-2020 registered under sections 380, 454, 411 of the Pakistan Penal Code, 1860 (hereinafter referred to as "**PPC**") at Police Station Banigala, Islamabad.

2.            Brief facts, as alleged in the FIR are that on 14-02-2020, at about 08:40 a.m. five persons including the petitioner illegally entered the house where the complainant was employed as chowkidar and stole valuable articles. The petitioner was apprehended while trying to escape. Hence the instant petition.

3.            The learned counsel for the petitioner has contended that; the latter is innocent and has not committed any offence; fake recovery has been planted against the petitioner; the petitioner has been incarcerated for more than two months;

allegations against the petitioner are false, frivolous, baseless and concocted; the 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 purpose of further investigations; the petitioner has no criminal history; the petitioner is previously non-convict; there are sufficient grounds for further inquiry into the guilt of the petitioner; hence prays for grant of post arrest bail.

4. The learned State Counsel appeared alongwith Sarfraz Ahmed, ASI. They have contended that; the petitioner was caught red handed from the spot; stolen articles were recovered on the pointation of the co-accused; sufficient material is available on record to connect the petitioner with the commission of offence; the offence is heinous in nature and affects the society; the petitioner has failed to point out any malafide on part of the prosecution; hence urged for dismissal of the present bail application.

5. The learned counsel for the petitioner and the learned State Counsel have been heard and record perused with their able assistance.

6. The offences do not fall within the prohibitory clause of section 497 of the Code of Criminal Procedure, 1898. Whether or not the offences mentioned in the FIR are attracted to the extent of the present petitioner needs further probe. The petitioner was not caught from the private property. Investigation against the petitioner has been completed and further

incarceration of the latter will not serve any useful purpose. Report under section 173 of Cr.P.C. has been submitted before the learned trial Court. Nothing has been placed on record to indicate that the petitioner may abscond if he is released on bail. Furthermore, two co-accused have already been extended the concession of bail by this Court. This Court is, therefore, of the opinion that the petitioner is entitled to be released by extending the concession of bail.

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.2,00,000/- (Rupees two hundred thousand only) with one surety in the like amount to the satisfaction of 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)

*Luqman Khan/\**