

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

Crl. Misc. No.724-B/2020

Zahoor Ahmad Khan

*versus*

The State & another

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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10.06.2020

Mr. Zahid Akhtar Satti, Advocate for petitioner.

Mr. Muhammad Sohail Khurshid, State Counsel.

Arshad, ASI, P.S. Karachi Company, Islamabad.

**MOHSIN AKHTAR KAYANI, J:** Through this criminal miscellaneous petition, the petitioner has prayed for post arrest bail in case FIR No.77, dated 22.02.2020, under Sections 380/411 PPC, P.S. Karachi Company, Islamabad.

2. Brief facts as referred in the instant case are that Saleheen son of Hayat Muhammad (Respondent No.2) submitted a complaint having allegations that on 01.01.2020, he visited PIMS Hospital, Islamabad in connection with medical treatment of her daughter, however his two mobile phones i.e. Huawei Mate Lite and Nokia 106 have been stolen. The said complaint has been converted into case FIR No.77/2020 and during investigation, the petitioner was arrested and got recovered the said stolen mobile phones of complainant. The petitioner applied for his post arrest bail before learned Illaqa Magistrate, Islamabad and learned Sessions Judge, Islamabad, however the same were concurrently dismissed. Hence, the instant post arrest bail application.

3. Learned counsel for petitioner contends that the petitioner is not nominated in the instant FIR, rather the petitioner has been made scapegoat by involving him in the

instant FIR; that the circumstances of the prosecution warrant for its further inquiry and probe; that the offences alleged against the petitioner do not fall within prohibitory clause of Section 497 Cr.P.C. and as such, nothing incriminating material is available on record to connect the petitioner with the commission of alleged offence; that the petitioner is behind the bars since his arrest and investigation of the case has been completed, therefore, keeping the petitioner behind the bars would serve no useful purpose.

4. Conversely, learned State Counsel opposed the instant post arrest bail application on the grounds that, *prima facie*, petitioner has been found in possession of the stolen mobile phones along with 10 other mobile phones rendering him to be a habitual offender involved in theft of mobile phones, therefore, the instant post arrest bail application may be dismissed.

5. Arguments heard, record perused.

6. The tentative assessment of record reveals that petitioner has been involved as accused in case FIR No.77, dated 22.02.2020, under Section 380/411 PPC, Police Station Karachi Company, Islamabad, lodged on the complaint of Saleheen, who alleged that he had been deprived of his two mobile phones i.e. Huawei Mate Lite and Nokia 106 in PIMS Hospital when he brought her daughter there for medical treatment.

7. The petitioner was arrested in this case on 26.02.2020 when he was taken in custody in another FIR, although the petitioner has not been nominated in this case, however he has been found in possession of two stolen mobile phones of the complainant, as such, the petitioner is, *prima facie*, linked with recovery in terms of Section 411 PPC only. The offence with which petitioner has been charged does not fall within

the prohibitory clause of Section 497 Cr.P.C., even otherwise, challan has been submitted in the Court on 28.02.2020 and the petitioner is no more required for the purpose of investigation as no useful purpose would be achieved by keeping the petitioner behind the bars.

8. The grant of bail in such type of cases is a rule and refusal is exception as held in cases reported as PLD 1995 SC 34 (Tariq Bashir, etc. vs. The State) and PLD 2017 SC 733 (Muhammad Tanveer vs. The State).

9. Keeping in view the above position, the instant post arrest bail application is ALLOWED. The petitioner is admitted to post arrest bail subject to furnishing of his bail bonds in sum of Rs.100,000/- with one surety in the like amount to the satisfaction of the learned Trial Court.

**MOHSIN AKHTAR KAYANI**  
JUDGE

Khalid Z.