

HCJD/C-121
ORDER SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

Crl. Misc. No. 681-B of 2020.

Muhammad Jamshed 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.
21.05.2020.	Mr Muhammad Shahzad Siddique Advocate, for the petitioner. Ms Qurat ul Ain Ayesha Advocate, for the complainant. Mr M. Atif Khokhar, State Counsel. Mr Haider ASI and Arshad ASI, with record.	

The petitioner Muhammad Jamshed Khan son of Khan Azam has sought post arrest bail in case F.I.R. No. 107, dated 08.03.2020, registered under sections 382, 395, 412 and 420 of Pakistan Penal Code, 1860 (hereinafter referred to as "**PPC**") at Police Station Karachi Company, Islamabad.

2. Brief facts as narrated in the FIR are that on 02.03.2020 at about 09:30 p.m., four unknown persons on gunpoint snatched valuables including cash, ATM card, mobile phone, a wrist watch and registration book of a vehicle, etc., from the complainant and his nephew. They took away cash and valuable items. Hence the instant FIR.

3. The learned counsel for the petitioner has contended that; the petitioner is a respectable citizen having no criminal record; the petitioner is not nominated in the FIR; no recovery has been affected from the petitioner; the petitioner did not commit any offence; the prosecution story is concocted one; the offence mentioned in the FIR is not attracted

to the petitioner; the petitioner is previous non-convict and non-record holder; investigation qua the petitioner has been completed and he is no more required for the purposes thereof; allegations against the petitioner require further inquiry; hence prayed for the grant of post arrest bail.

4. The learned counsel for the complainant and the learned State Counsel have appeared alongwith Haider ASI. They have opposed the grant of bail. It has been argued that; the complainant has no previous enmity with the petitioner; recovery has been affected from the petitioner; therefore, he is not entitled for the concession of bail.

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

6. Perusal of record shows that the occurrence had taken place on 02.03.2020, whereas the FIR was registered on 08.03.2020 i.e. after a delay of almost six days. The petitioner was not nominated in the FIR. The petitioner was arrested on the basis of CCTV Camera's video. Moreover, the items stated to have been recovered from the petitioner needs further probe. Investigation qua the petitioner has been completed and he is no more required for the purposes thereof. In the circumstances, the case of the petitioner comes within the ambit of further probe. His continued custody is not likely to serve any beneficial purpose at this stage as the investigation has been completed. Nothing has been placed on record to form an opinion regarding apprehension that the petitioner may abscond or tamper with the prosecution evidence. This Court is, therefore, of the opinion that the petitioner is entitled to bail.

7. It has been aptly observed by the august Supreme Court in the case of "*Manzoor and 04 others versus 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.200,000/- (Rupees two hundred thousand only) with one surety in the like amount to the satisfaction of the learned trial Court. The petitioner will be released provided his incarceration is not required in some other case.

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)

Tanveer Ahmed.