

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Crl.Misc.No.492-B/2019

Bilal

Versus

The State and 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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06.08.2019

**Ms. Zil-e-Huma, Advocate for the petitioner
Mr. Sadaqat Ali Jahangir, learned State Counsel
with Zulfiqar A.S.I.**

Through the instant criminal miscellaneous petition, the petitioner, Bilal S/o Raza Khan, seeks bail after arrest in case F.I.R. No.146, dated 02.04.2019, under Sections 392 and 411 of the Pakistan Penal Code, 1860 ("P.P.C.") registered at Police Station Sabzi Mandi, Islamabad.

2. Earlier the petitioner's similar requests seeking post-arrest bail were dismissed by the learned Judicial Magistrate and Additional Sessions Judge, Islamabad, vide orders dated 12.04.2019 and 29.05.2019, respectively.

3. Learned counsel for the petitioner submits that the petitioner is not nominated in the F.I.R.; that that there is a delay of almost 07 days in lodging the F.I.R.; that no identification parade was conducted; that the petitioner remained on physical remand and during the investigation, nothing incriminating was recovered from the petitioner to connect him with the commission of alleged crime; that the petitioner is a juvenile being 15 years of age is entitled to all the rights provided to him under the Juvenile Justice System Ordinance; and that the petitioner is behind bars since the date of his arrest and the trial has not yet commenced. Learned counsel prayed for the

petition to be allowed and for the petitioner to be released on bail.

4 Conversely, learned State Counsel opposed the bail petition by stating that although the petitioner is nominated in the F.I.R. but his description has been provided by the complainant in the F.I.R.; that when the petitioner was arrested in other cases of similar nature, the complainant identified him; that the recovery of cash amount, registration book and identity card etc from the petitioner *prima-facie* connects him with the commission of alleged crime; that according to the record, the petitioner belongs to a gang of *dacoits* who is also involved in other cases of similar nature; and that the offences alleged to have been committed by the petitioner do not fall within the prohibitory clause of Section 497 Cr.P.C. Learned State Counsel prayed for the bail petition to be dismissed.

5. I have heard the contentions of the learned counsel for the parties and have perused the record with their able assistance.

6. Brief facts as stated in the F.I.R. are that the complainant was a taxi driver. On 25.03.2019 at about 8:45 p.m. when he was at *Mandi More* near 121 Number Stop, a person/passenger came to him and hired the taxi to drop him at a hotel near Islamic University against an agreed amount of Rs.150/-. When the complainant crossed FAST University, the said passenger asked him to turn the taxi on a *kacha* path. When the complainant went ahead on the *kacha* path, he saw three persons riding a motor cycle. On the direction of the said passenger, when the complainant stopped the taxi, the said persons forcibly entered in the taxi and the person sitting on the front seat armed

with dagger forced the complainant out of the vehicle. Out of the said four persons, two of them started searching the complainant and as a result, they snatched an amount of Rs.45,000/-, identity card, registration book of the vehicle etc and decamped from the spot. In the F.I.R., description of the accused persons was provided by the complainant. Furthermore, the complainant also provided the registration number (i.e. No.026) of the said motor cycle on which the said three accused persons were riding. Later, the complainant identified the accused persons who had committed robbery and deprived him of an amount of Rs.45,000/- etc. Hence the F.I.R. in question was lodged against the petitioner and his co-accused.

7. In the F.I.R., the complainant had disclosed the description of the accused persons who had committed the robbery. Although the identification parade has not been conducted, but the complainant had identified the petitioner and his co-accused (as the persons who had committed robbery) while they were in the custody of police station Sabzi Mandi. Recovery memo appended with the record shows that the motor cycle i.e. ADQ/026 allegedly used in the commission of crime had been recovered on the pointation of the accused/petitioner. Furthermore, recovery of Rs.12,500/-, identity card of the complainant and original registration book of the vehicle bearing registration No.RPT/1589 from the accused/petitioner, also *prima-facie*, connects him with the commission of alleged crime. No enmity or grouse is surfaced from the record against the petitioner for involving him in alleged crime. Copies of the F.I.R.s appended with the record show the

petitioner's and his co-accused involvement in other cases of similar nature.

8. For the reasons aforementioned, the petitioner is not entitled to the concession of bail. Consequently, the bail petition is dismissed.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Qamar Khan*