

HCJD/C-121
ORDER SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

Crl. Misc. No. 682-B of 2020.

Tanveer Hussain

VERSUS

The State and another

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
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15-05-2020. Mr Muhammad Shahzad Qureshi Advocate, for the
petitioner.
Raja Nisar ul Haq Abbasi Advocate, for complainant.
Mr M. Ishaq Khan, SI, with record.

The petitioner Tanveer Hussain son of Muhammad Rafique
has sought post arrest bail in case FIR No. 82, dated 18.06.2019,
registered under sections 324, 337.F-VI and 34 of Pakistan Penal Code,
1860 (hereinafter referred to as "**PPC**") at Police Station Nilore,
Islamabad.

2. Brief facts as narrated in the FIR are that on 17.06.2019, the
petitioner alongwith other two co-accused, armed with 30-bore pistols,
fired upon him while he was on his way to the house of his relatives. It
was alleged that there was an existing dispute which had led to
commission of the offence. Hence the instant FIR.

3. The learned counsel for the petitioner has contended that; the latter is innocent and has been falsely implicated in the instant case as a wider net due to family enmity; no empty has been recovered from the spot in respect of the pistol allegedly used by the petitioner; co-accused Qadeer has already been granted bail; ocular account and medical evidence is not in line with each other; the story of the FIR is concocted; the petitioner has no concern whatsoever with the alleged offences; there is no chance of abscondance or tampering with the prosecution evidence; involvement of the petitioner is highly doubtful; 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 purposes of further investigations; the case of the petitioner falls within the ambit of further inquiry.

4. The learned counsel for the complainant appeared alongwith M. Ishaq Khan, SI, with record. They have opposed the grant of bail. It has been alleged that; it is a promptly lodged FIR; specific role has been attributed to the petitioner; the petitioner is involved in the commission of the offences; the petitioner remained fugitive from law for four months; the offences fall within the ambit of prohibitory clause of section 497 of Cr.P.C. recovery of pistol has been affected from the petitioner; the report under section 173 of Cr.P.C. has been submitted before the learned trial Court.

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

6. Admittedly, there is a background of a dispute. Whether or not section 324 of PPC is attracted in this case needs further probe because this factor can only be established during the trial. No empty was recovered from the crime scene. The injury on the hand is attributed to two persons i.e. the petitioner and another accused. It, prima-facie, appears to be the sole injury on the hand. The role of the petitioner and his involvement in the instant case definitely needs further probe. It is settled law that deeper appreciation of evidence is not undertaken while deciding grant of bail. The co-accused has been enlarged on bail. The recovery alleged to have been made on the basis of information given by the petitioner also requires further probe. The investigations qua the petitioner have been completed and, therefore, his further incarceration would not serve any useful purpose. In the facts and circumstances of the case this Court is satisfied on the basis of tentative assessment that a case for releasing the petitioner on bail is made out.

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.5,00,000/- (Rupees five hundred thousand only) with one surety in the like amount to the satisfaction of the 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.

(ATHAR MINALLAH)
CHIEF JUSTICE

Tanveer Ahmed