

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

Crl. Misc. No.777-B/2020

Muhammad Shuaib

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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01.07.2020

Mr. Shaukat Mehmood Malik, Advocate for petitioner along with petitioner.

Mr. Hasnain Haider Thaheem, State Counsel.

Mr. Haseeb Hassan, Advocate for CDA.

Shah Jahan, OGM (Environment) CDA.

Lal Badshah, Forester, CDA.

Muhammad Ramzan, A.D., CDA.

Nawaz, S.I., P.S. Golra Sharif, Islamabad with record.

MOHSIN AKHTAR KAYANI, J: Through this criminal miscellaneous petition, the petitioner has prayed for pre-arrest bail in case FIR No.124, dated 01.03.2020, under Section 33 of the Forest Act, 1927 read with Section 379 PPC, P.S. Golra Sharif, Islamabad.

2. Brief facts as referred in the instant case are that Shah Jahan (Respondent No.2) being an Acting Forest Guard of Jungle No.21/22, R.F. Islamabad filed a complaint having allegations that on 28.02.2020, at about 04:40 p.m., the petitioner had cut down 10/12 trees of Kahu & Pulai and stolen it by lading it at his camel. Accordingly, the case FIR No.124/2020 has been registered against the petitioner. Having apprehension of getting arrested by the police, the petitioner moved an application for his pre-arrest bail, however the same has been dismissed vide order dated 12.06.2020 by learned Additional Sessions Judge (West), Islamabad. Hence, the instant pre-arrest bail

3. Learned counsel for petitioner contends that the complainant (Respondent No.2) had neither personally seen the petitioner cutting down the trees nor any witness whatsoever is available to substantiate the stance of the complainant; that petitioner apprehends immediate arrest and humiliation at the hands of local police and as such, the case of petitioner falls under further probe and inquiry, therefore, petitioner may be granted bail before arrest till decision of the case.

4. Conversely, learned State Counsel as well as learned counsel for the CDA opposed the filing of instant application for pre-arrest bail of petitioner and contends that the petitioner is properly nominated accused for committing the offence of theft of trees/woods belonging to the Government, therefore, the instant bail application may be dismissed.

5. Arguments heard, record perused.

6. Tentative assessment of the record reveals that petitioner Muhammad Shuaib has directly been nominated in criminal case FIR No.124, dated 01.03.2020, under Section 33 of the Forest Act, 1927 read with Section 379 PPC, P.S. Golra Sharif, Islamabad for allegedly involved in cutting down and stealing of valuable trees of the forest land. A specific role has been attributed to the petitioner and as such, by granting pre-arrest bail to the petitioner at this stage would amount to denial of investigation as well as recovery of the stolen articles. Reliance is placed upon 2020 SCMR 249 (Gulshan Ali Solangi, etc. v. The State) and 2016 YLR 439 Lahore (Shahzad Asghar Gondal vs. The State).

7. Even otherwise, the petitioner has failed to point out any malafide on the part of Respondent No.2 (complainant), who is performing his lawful duties being a forest guard in

the CDA and as such, the petitioner has failed to substantiate his case on the legal requirements.

8. In view of above, the instant criminal miscellaneous application is hereby DISMISSED and the order dated 19.06.2020, passed in instant criminal miscellaneous petition, whereby ad-interim pre-arrest bail has been granted to the petitioner, is hereby RE-CALLED.

(MOH̄SIN AKHTĀR KĀYANI)
JUDGE

Khalid Z.