

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

Crl. Misc. No.537-B/2019
Nasir Khan alias Kale 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.
	30.08.2019	Mr. Abrar Ahmad Nadeem Cheema, Advocate for petitioner. Barrister Ayesha Siddique Khan, State Counsel. Mr. Mahfooz Paracha, District Attorney, ICT, Islamabad. Umar Khan, S.P. (Saddar), Islamabad. Muhammad Iqbal, S.H.O., P.S. Golra Sharif, Islamabad. Sajid Cheema, Inspector (Legal). Muhammad Abbas, ASI, P.S. Golra Sharif, Islamabad.

MOHSIN AKHTAR KAYANI, J: Through this criminal miscellaneous bail application, the petitioner has prayed for his post-arrest bail in case FIR No.380, dated 04.09.2018, under Section 395/412, PPC P.S. Golra Sharif, Islamabad.

2. Brief facts referred in the instant FIR lodged by complainant namely Haji Sadaqat Ali/respondent No.2 are that on 03.09.2018, at about 9:30 p.m., the complainant family was at home and main gate of the house was open, when 04 persons duly armed with pistols entered into the house and snatched jewelry and cash amounting to Rs.90,000/- from the family members, whereas they also snatched cash, ID Card and ATM cards from his nephew Yasir Kamal; purse, ID Card and ATM Card from nephew Natiq Haider; ID Card and mobile phone from daughter Rukhsar Ali, and mobile phones of make and model Samsung J7, iPhone 7, Huawei GR3, Blackberry and Nokia along with SIMs. During the said incident, the complainant and his friend namely Haji Abdul

Waheed also reached the house when the armed robbers present in the house detained them and snatched their ID cards, driving licenses, ATM cards, cash, keys of car and mobile phone of make and model Samsung S7 Edge along with SIM.

3. Learned counsel for petitioner contends that petitioner has not been nominated in this matter and he was arrested in some other case and got involved in the instant matter without any evidence; that the petitioner is behind the bars from last 11 months and trial has not yet been concluded.

4. Conversely, learned State Counsel contends that challan has been submitted in the court and petitioner has been identified during identification parade by one of the eyewitness, even recovery has been effected from petitioner therefore, he is not entitled for concession of post arrest bail.

5. Arguments heard, record perused.

6. Perusal of record reveals that petitioner has been arrested in case FIR No.380, dated 04.09.2018, under Section 395/412 PPC, P.S. Golra Sharif, Islamabad. The tentative assessment of record reveals that it was alleged by complainant that 04 unknown persons armed with pistols snatched cash, jewelry, mobile phones, ID Cards, ATM cards and purse on gunpoint. Although, the FIR is silent to the extent of names of accused persons, but petitioner was got arrested in another FIR, bearing No.343/2018, registered in P.S. Tarnol, Islamabad, in which a disclosure was made regarding commission of robbery reported through FIR No.380, dated 04.09.2018, under Section 395/412 PPC, P.S. Golra Sharif, Islamabad. Similarly, 08 other criminal cases of similar nature are registered against petitioner.

7. The petitioner was arrested on 08.10.2018 in another FIR, whereafter he was identified by complainant's son

namely Awais during the course of identification parade, even recovery of looted/stolen articles was made from the gang members and the car (LEC-3112) Corolla used in the alleged crime was driven by Nasir Khan alias Kale Khan i.e. present petitioner, who has performed guarding duty outside crime scene and facilitated the co-accused after the alleged incident.

8. The challan has been submitted in the Court, charge has been framed on 14.03.2019 and evidence has been called, whereas it is trite law that when trial is commenced, bail shall not be granted in such type of cases. The vehicle and weapons of offence used in the offence have also been recovered during the course of investigation. The record, *prima facie*, connects petitioner with heinous crime in which complainant and his family members were harassed and deprived of their valuable articles on gunpoint. The maximum punishment under Section 395 PPC is life imprisonment and as such, the offence falls within prohibitory clause of Section 497 Cr.P.C. No ground of further inquiry is visible on record.

9. In view of above discussion, the petitioner is not entitled for concession of post arrest bail at this stage, therefore, the instant bail application is hereby **DISMISSED**. However, while relying upon celebrated judgment of the apex Court reported as 2011 SCMR 1332 (Rehmat Ullah vs. The State), direction is hereby issued to the learned Trial Court seized with the matter to conclude the trial on or before 31.03.2020.

(MOHSIN AKHTAR KAYANI)
JUDGE