

HCJD/C-121
ORDER SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

CRL. MISC. NO. 58-B of 2020.

Muhammad Zaheer.
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.
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24.02.2020. Mr Mukhtar Ahmed Tarar, Advocate for the petitioner.
Mr Rabi Bin Tariq, State Counsel.
Mr. Abdul Jabbar Khan, Inspector with record.

The petitioner Muhammad Zaheer son of Murad Khan sought post arrest bail in case, F.I.R. No. 455, dated 08.09.2019, registered under sections 302/34 of Pakistan Penal Code, 1860 (hereinafter referred to as "**PPC**") at Police Station Golra Sharif, Islamabad.

2. Brief facts, as alleged in the FIR are that on 08.09.2019, Naveed Ali was severely beaten up by the petitioner and other co-accused. He later succumbed to the injuries on 15.09.2019. Hence the instant case.

3. The learned counsel for the petitioner has contended that; the complainant of the case had executed an affidavit, wherein he had stated that the petitioner was innocent and he did not object if the petitioner was released on bail; the petitioner has been incarcerated for more than five months; the petitioner has been falsely involved in the instant case with ulterior motives; there is no eye witness of the alleged occurrence; story as narrated in the FIR is false, frivolous and baseless; time of occurrence has not been mentioned in the FIR; the petitioner has no concern whatsoever with the alleged occurrence; no incriminating

material was recovered from the petitioner; the complainant with malafide intention involved the present petitioner in the instant case; the allegations are false, frivolous, factitious, baseless and concocted; the petitioner has no criminal record; there is no chance of abscondance of the petitioner or tampering with the prosecution evidence; the petitioner was not present at the time of alleged occurrence; offence is not attracted against the petitioner; investigation qua the petitioner has been completed and he is no more required for the purposes thereof; report under section 173 of Cr.P.C. has been submitted before the learned trial Court; there is no direct or indirect evidence against the petitioner, except for the statement of the complainant; the case against the petitioner is that of further inquiry; hence the learned counsel urges the petitioner to be released on bail.

4. The learned State Counsel appeared alongwith Abdul Jabbar Khan, Inspector. They have opposed the grant of bail. They have contended that; the petitioner is nominated in the FIR; specific role has been attributed to the petitioner; the petitioner with the help of other co-accused namely, Muhammad Farooq has committed a heinous offence and, therefore, does not deserve any leniency; the case of the co-accused who has been declared innocent and placed in column no.2 of the challan is not at par with the present petitioner; recovery has been affected from the petitioner; report under section 173 of Cr.P.C. has been submitted before the learned trial Court. They have urged for dismissal of the bail petition.

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

6. The petitioner is nominated in the FIR. The complainant had asserted in his complaint that the victim had named the petitioner

immediately after the occurrence and while he was severely injured. There is sufficient incriminating material brought on record to, prima facie, indicate involvement of the petitioner in commission of the offence. Admittedly, the offence mentioned in the FIR falls within the ambit of the prohibitory clause. The report under section 173 of Cr.P.C. has been submitted before the learned trial Court and trial of the case is expected to be completed expeditiously. The learned counsel for the petitioner, despite his able assistance, was not able to persuade this Court that a case is made out for extending the concession of bail. The affidavit said to have been submitted by the complainant is contrary to assertions made by him in his complaint. Moreover, at this stage deeper appreciation of evidence including recording an opinion regarding the affidavit is not permissible. Prima facie, sufficient incriminating material is available on record against the petitioner. In the facts and circumstances of the instant petition, this Court is not inclined to extend the concession of bail at this stage. It is, however, expected that the learned trial Court will conclude the proceedings expeditiously. The prosecution as well as the petitioner will endeavour to conclude the trial at the earliest.

7. For what has been discussed above, this Court is satisfied, that a case is not made out for the grant of bail in favour of the petitioner and, therefore, the instant petition is accordingly ***dismissed***.

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)