

HCJD/C-121
ORDER SHEET

ISLAMABAD HIGH COURT
ISLAMABAD

Crl. Misc. No. 629-B of 2020.

Wasim Akram.
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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02. 07.04.2020. Malik Saqib Mahmood, Advocate for the
petitioner.
Mr M. Atif Khokhar, State Counsel.
Mr Rasheed, ASI with police record.

The petitioner Wasim Akram son of
Muhammad Akram has sought post arrest bail in case, F.I.R.
No. 84, dated 23.02.2020, registered under sections 382 /
411 of Pakistan Penal Code, 1860 (hereinafter referred to as
"**PPC**") at Police Station Sihala, Islamabad.

2. Brief facts as alleged in the FIR are that the
present petitioner alongwith four other co-accused/
accomplice had forcibly taken from the possession of the
complainant an amount of Rs.2.5 million. Hence the instant
FIR.

3. The learned counsel for the petitioner has
contended that; the latter has been falsely involved in the
instant case with malafide intention; offences are not
attracted against the petitioner; the petitioner has no
concern whatsoever with the alleged offences; no

incriminating material was recovered from the petitioner despite being on physical remand; investigations qua the petitioner have been completed and he is no more required for the purposes thereof; the petitioner is innocent; story as narrated in the FIR is false, frivolous and concocted; recovery if any is fake and planted; the petitioner has no criminal record; offences do not fall within the ambit of prohibitory clause of section 497 of Cr.P.C.; ingredients of section 382 PPC are not attracted against the petitioner; there is unexplained delay of thirteen days in registration of the instant FIR; the petitioner was arrested in the instant case on 24.02.2020, whereas the alleged occurrence had taken place on 07.02.2020; the petitioner was neither present at the time of occurrence nor he had participated in the alleged occurrence; the petitioner has been incarcerated for one and a half month; there is no chance of abscondance of the petitioner or tampering with the prosecution evidence; no direct recovery has been effected from the petitioner. Hence urges for the release of the petitioner on bail.

4. The learned State Counsel appeared alongwith Rasheed, ASI and opposed the bail. It is contended that; the petitioner is nominated in the FIR with specific role; the petitioner has committed a heinous offence; the petitioner alongwith the other co-accused/accomplice has deprived the complainant from a substantial amount; recovery has been affected from the petitioner; the petitioner is fully involved in

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the commission of the alleged offences; hence it is prayed that the instant bail petition be dismissed.

5. The learned counsel for the petitioner and the learned State Counsel have been heard and record perused with their able assistance.

6. Perusal of FIR shows that the petitioner and the complainant were not known to each other before the occurrence. The alleged occurrence had taken place on 07.02.2020, while the instant FIR was registered on 20.02.2020 i.e. after a lapse of thirteen days. Admittedly, the complaint was not filed by the complainant promptly. Perusal of record further reveals that at one stage the complainant preferred not to contest the case against the petitioner and the other co-accused/accomplice. It appears that the complainant was not able to attribute a specific role to the petitioner. The role of the petitioner and his involvement in the alleged offences requires further probe. Investigations qua the petitioner have been completed and he is no more required for the purposes thereof. Incomplete report under section 173 of Cr.P.C. has been submitted before the learned trial Court. The petitioner has been incarcerated for one and a half month. His continued incarceration will not serve any useful purpose. Therefore, this Court is of the opinion that the petitioner is entitled to bail.

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7. It has been aptly observed by the august Supreme Court in the case of "*Manzoor and 04 others versus 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.1,00,000/- (Rupees one 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.

CHIEF JUSTICE

*Asad K/**