

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

Crl.Misc.No.345-B/2019  
Muhammad Umair Ashraf  
**Versus**  
The State and another

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	<b>03.06.2019</b>	<b>Syed Abaid Ullah Shah, Advocate for the petitioner</b> <b>Malik Awais Haider, learned State Counsel with Muhammad Ashraf S.I.</b>

Through the instant criminal miscellaneous application, the petitioner, Muhammad Umair Ashraf S/o Muhammad Ashraf, seeks bail after arrest in case F.I.R. No.428, dated 03.10.2018, under Sections 395 and 412 of the Pakistan Penal Code, 1860 ("P.P.C.") registered at Police Station Golra, Islamabad.

2. Earlier the petitioner's post-arrest bail petitions were dismissed by the learned Courts below, vide orders dated 25.04.2019 and 14.05.2019. Thereafter, the petitioner filed the instant petition for post-arrest bail.

3. Learned counsel for the accused/petitioner submits that the accused/petitioner is neither nominated in the F.I.R. nor has the description of his features been mentioned; that the petitioner has been involved in this case on the basis of the complainant's supplementary statement, which has no evidentiary value; that there is a substantial delay in lodging the F.I.R.; that the identification parade was not conducted in accordance with law; that during the investigation, nothing has been recovered from the accused/petitioner; that recovery, if any, has

been planted by the police and the same is violative of mandatory provisions of Section 103 Cr.P.C.; that the case against the accused/petitioner is one of further inquiry within the meaning of Section 497(2) of the Cr.P.C.; and that the petitioner is behind bars since his arrest and is no more required by the police for further investigation. Learned counsel prayed for the petition to be allowed and for the petitioner to be released on bail.

4. On the other hand, learned State Counsel opposed the bail petition by stating that although the petitioner was not nominated in the F.I.R., but during the course of identification parade, he was rightly identified by the complainant; that during the investigation, one briefcase (black in colour), cheque book of Habib Bank Limited, photocopies of Identity Cards, visiting cards and other documents alleged to have been stolen were recovered from the house of the accused/petitioner; that the alleged offences fall in the prohibitory clause of Section 497 Cr.P.C.; that there is sufficient material available on the record to connect the accused/petitioner with the commission of alleged crime; and that the accused/petitioner is a habitual offender and is also involved in other cases of similar nature. Learned State Counsel prayed for the bail petition to be dismissed.

5. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance.

6. As per the FIR, lodged on 03.10.2018 by the complainant namely, Waseem Iqbal, the

allegation against the accused/petitioner is that on 26.09.2018, at about 11:00 p.m., he along with his co-accused entered the house of the complainant and committed *dacoity* and looted cash amounting to Rs.1,75,000/-, gold ornaments, the complainant's H.B.L. cheque book, copies of his identity card, visiting cards, property documents, a watch (Slazenger) and a purse containing Rs.5,000/- and a locket.

7. The record shows that the accused/petitioner was arrested in this case on 08.10.2018. On 12.10.2018, identification parade was conducted. Initially, the case was registered against unknown persons, but later on, during the identification parade, the petitioner was identified as one of the accused, who had committed the alleged crime. Recovery memo appended with the record shows that the alleged stolen items (i.e. a cheque book H.B.L., photocopies of identity cards, visiting cards, documents relating to the complainant's house, brief case black in colour etc) were recovered from the house of the accused/petitioner during the investigation in presence of the witnesses. Such a recovery, *prima-facie*, connects the accused/petitioner with the commission of alleged crime. The records further shows that the accused/petitioner is also involved in other criminal cases of similar nature, as such he *prima- facie* appears to be a habitual offender. Given the heinous nature of the offence alleged to have been committed by the accused/petitioner and the fact that he has been involved in two other cases of similar nature, and

the recoveries having been made from him, I am not inclined to accept this bail petition, which is accordingly dismissed. However, the learned trial Court shall conclude the trial at the earliest. Needless to observe that the observations made herein shall not influence the learned Trial Court in giving its decision at the conclusion of the case.

**(MIANGUL HASSAN AURANGZEB)**  
**JUDGE**

Qamar Khan\*