

**ORDER SHEET.**  
**ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

**Criminal Misc. No. 295-B/2021**

**Muhammad Jan**

***Versus***

**The State and another.**

<b>S.No. of order/ proceeding</b>	<b>Date of order/ proceeding</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
<b>(02)</b>	<b>07.04.2021</b>	<b>Ms. Ume Ruqiaya and Mr. Usman Nasir, Advocates for the petitioner / accused. Mr. Zamurd Khan Khattak, State Counsel. Muhammad Asif, A.S.I.</b>

Through the instant petition, the petitioner seeks bail after arrest in case F.I.R. No. 413/2019, dated 25.11.2019, offence U/S 392, 411 P.P.C, registered at police station, Khanna, Islamabad.

02. As per allegation, four unknown persons snatched an amount of Rs. 30,00,000/- from employees of Faisal Movers Bus Service on gun point and also took key of the car with them, hence the instant FIR.

03. Learned counsel for the petitioner / accused contends that the petitioner is innocent and has falsely been involved in the case; no recovery has been effected from the petitioner / accused; offence does not falls under the prohibitory clause of section 497 Cr.P.C; investigation in the case has been completed and the petitioner / accused is no more required for further investigation, hence is entitled for the grant of bail after arrest.

04. Conversely, learned state counsel has

vehemently opposed the grant of bail and stated that the petitioner / accused has committed a heinous crime; offence falls under the prohibitory clause of section 497 Cr.P.C; petitioner / accused is involved in other cases of similar nature; hence is not entitled for grant of bail after arrest.

05. I have heard the arguments advanced by learned counsel for the petitioner / accused, learned state counsel and perused the record with their able assistance.

06. According to the facts of the case three accused namely Ghulam Abbas, Fazal Rehman and Muhammad Jan / present petitioner were arrested in the case. Identification parade was conducted, wherein all the three accused were identified by witnesses and an amount of Rs. 19000/- has also been recovered from Ghulam Abbas / accused, whereas no recovery has been effected from the present petitioner / accused. Ghulam Abbas / accused has been granted bail after arrest by the Court of learned Additional Sessions Judge-East, Islamabad vide order dated 07.05.2020, whereas accused / Fazal Rehman has also been granted bail after arrest by the Court of Additional Sessions Judge-East, Islamabad vide order dated 06.11.2020. Bail after arrest of the present petitioner / Muhammad Jan on the same footing / evidence was rejected by the same Court vide order dated 13.03.2021. It is admitted at all hands that barring the petitioner, all the co-

accused, including those placed at a higher rung, have been released on bail, hence the petitioner / accused is entitled for grant of bail on the principle of consistency. Reliance is placed upon a case titled as **"Ghulab Khan V. Chairman NAB (2020 SCMR 285)"**.

07. The witnesses have stated in their statements under section 161 Cr.P.C that they were traveling in their car; at the time of occurrence, suddenly one corolla car came in front of them and stopped their car. Thereafter, two persons came on motorcycle and snatched the amount from them on gun point. During the proceedings of identification parade, PW-Khaleeq Shahzad has identified Fazal Rehman and Muhammad Jan and has recorded his statement before the Sub-Divisional Magistrate, Islamabad that their car was stopped by the car of accused and two persons came on motorcycle and snatched the amount. PW-Muhammad Ali has not identified Fazal Rehman / accused and has only identified Muhammad Jan / present petitioner, and got recorded his statement before Sub-Divisional Magistrate, Islamabad, wherein he has stated that at the time of occurrence two persons came on motorcycle, stopped them and snatched the amount on gun point, alongwith them two more persons were also present on motorcycle, the said witness has not mentioned about stopping of their car by the car of accused party and has taken a

different stance.

08. As far as contention of learned state counsel that the petitioner is involved in other criminal cases is concerned, it would suffice that mere involvement in other cases would not disentitle him from the relief of bail if he otherwise succeeds in bringing his case within the meaning of further inquiry. Needful to add that liberty of a person is a precious right that has been guaranteed in the Constitution of Islamic Republic of Pakistan, 1973 hence in cases, where there is slight tilt towards grant of bail, the same needs to be preferred over letting one to confine in jail for an indefinite period in name of trial when conclusion thereof can competently impose due punishment for such released person. Further, learned state counsel has not brought on record any material that petitioner / accused has been convicted in any other case, hence, mere involvement in criminal cases cannot be a ground to withhold the concession of bail in given circumstance. Reliance is placed upon the cases of “Moundar and others V. The State (PLD 1990 SC 934), Babar Hussain V. State (2020 SCMR 871) and Muhammad Rafique V. State (1997 SCMR 412)”.

09. It is important to remember that bail is not to be withheld as a punishment. There is no legal or moral compulsion to keep the people in jail merely on the allegation that they have committed offences punishable with death or transportation,

unless reasonable grounds exist to disclose their complicity. The ultimate conviction and incarceration of a guilty person can repair the wrong caused by a mistaken relief of bail after arrest 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. Reliance is placed on a case reported as **“Manzoor and 4 others Vs. The State” (PLD 1972 SC 81)”**.

10. Investigation in the case has been completed, other co-accused have already been granted bail after arrest from the Court of Additional Sessions Judge-East, Islamabad. No recovery has been effected from the present petitioner / accused. The petitioner / accused is no more required by the police for further investigation. He is behind the bars since his arrest without any progress in the trial. Fair and speedy trial is one of the fundamental rights of the petitioner, no moral and legal compulsion exists to keep the petitioner / accused behind the bars for indefinite period which amounts to punishment without trial.

11. A tentative assessment of record shows that the petitioner has made out a case of further inquiry as envisaged under Section 497(2) Cr.P.C.

12. For the above stated reasons, this petition is hereby accepted and the petitioner is admitted to bail subject to furnishing bail bonds in the sum of

**Rs. 5,00,000/- (Five Hundred Thousand only) with one surety in the like amount to the satisfaction of learned trial Court.**

**13. Needless to mention that, this is a tentative assessment which shall not affect the trial of case in any manner.**

**(TARIQ MEHMOOD JAHANGIRI)  
JUDGE**

Bilal

*Approved for reporting.*