

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

Criminal Misc. No. 858-B/2020
Zubair Arif
Versus
The State

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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30.07.2020	<p>Mr. Saad Ali Sheikh, Advocate for the petitioner, Ms. Khadija Ali, learned State Counsel, Complainant (Muhammad Attique) in person, Bashir Ahmad Inspector/SHO PS Sihala and Aurganzeb ASI PS Lohi-Bher with record:</p>
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FIAZ AHMAD ANJUM JANDRAN, J. Through the instant petition under Section 497 Cr.P.C, petitioner (Zubair Arif) seeks post-arrest in case F.I.R. No.417, dated 06.11.2019, under Sections 392/411-PPC, Police Station Sihala, Islamabad.

2. According to the allegations set-forth in the F.I.R. on 5.11.2019, at about 06:00 PM within the area of Union Council Rewat, three boys intercepted the complaint while he was on his way to Kalar Syedan; snatched Motorcycle bearing Registration No.RIP-2974. Q-Mobile and Rs2000/- on gun point and fled away. According to the complainant, the assailants were of 25/30 years age, one of them had long hairs with medium stature and he can identify them. Hence, the instant FIR.

3. Learned counsel for the petitioner contends there is a delay in lodging the FIR; that the alleged recovery is fake; that petitioner is behind the bars since arrest; investigation is

complete and he is no more required for further probe; that mere involvement in other cases of like nature with no conviction is no ground to refuse bail if the case is one of further inquiry, therefore, petitioner is entitled to the concession of bail. Learned counsel placed reliance upon case laws reported as 2017 SCMR 279, 2017 P Cr L J 129, 2018 YLR Note 270 and 2019 P Cr L J Note 85.

4. On the other hand, learned State Counsel contends that petitioner was duly identified by the complainant during identification parade; recovery was also effected from his possession; there is no allegation of any false involvement while petitioner is also involved in other cases of like nature, therefore, cannot be held entitled to the concession of bail particularly when offence falls within the ambit of prohibitory clause of Section 497 Cr. PC and the trial is likely to commence.

5. Arguments heard, record perused.

6. Perusal of record reveals that neither the snatched motorcycle was recovered from the possession of the petitioner nor there is any EMI Number of Mobil Phone, allegedly recovered from the possession of the petitioner, either in the FIR or in the statement of the complainant, which, prima facie, could be made basis to connect the petitioner with the commission of alleged offence, therefore, the case to his extent is one of further inquiry.

7. Moreover, after submission of challan the petitioner has been indicted to trial on

25.02.2019. It is settled principle that when the case appears to be one of further inquiry and after completion of investigation, challan has been submitted, concession of bail can be extended to an accused. Reliance is placed upon case laws reported as "Jamshaid Asmat alias Sheedu V. The State (2011 SCMR 1405), "Sharyar V. The State, (2019 P Cr L J Note 85 (Lahore) and "Muhammad Usan V. The State" (2018 YLR Note 270 (Sindh).

8. The ground of having criminal record, in absence of conviction, cannot be considered as an impediment to extend the concession of bail if the case appears to be one of further inquiry. Reliance is placed upon case laws reported as Aftab Hussain V. The State (2004 SCMR 1467), Sher alias Shera and another V. The State (1999 MLD 1643) and Karim Bux V. The State (2001 PCr.LJ 1802).

9. In view of above tentative assessment, petitioner is held entitled to the concession of bail. Consequently, the instant bail petition is allowed, the petitioner is admitted to post-arrest bail subject to furnishing bail bonds in the sum of Rs.100,000/- with one surety in the like amount to the satisfaction of the learned Trial Court.

(FIAZ AHMAD ANJUM JANDRAN)
JUDGE

Suhail