

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

Criminal Misc. No. 917-B/2020  
Naqeeb Ullah  
Versus  
The State, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
------------------------------	----------------------------	---

02.	25.08.2020	Mr. Muhammad Shahzad Siddiq, Advocate for petitioner. Syed Shahbaz Shah, learned State Counsel with Khalid Awan DSP, Hanif and Habib Pasha ASIs. Complainant in person.
-----	------------	---

This is post-arrest bail petition by accused-petitioner (Naqeeb Ullah) in case FIR No.357, dated 04.08.2019, under Sections 392/411 PPC, Police Station Golra Sharif, Islamabad.

2. Briefly, the allegations set forth in the FIR are that, on 27.07.2019, at about 11:30 p.m. when the complainant along with his family was present in his house situated in Sector G-13/4, Islamabad, his nephew opened the door in response to a door-bell, some persons, two armed with pistols, entered the house and made them hostage; that the assailants committed robbery of articles and cash, detail of which is mentioned in the FIR and also took the complainant to the nearby bank and by using his ATM card, withdrew an amount of Rs.50,000/-.

3. Learned counsel for the petitioner contends that accused/petitioner is not nominated in the FIR, there is delay of seven days in lodging the FIR; that there is a general allegation against some unknown persons and

no specific role has been attributed to the petitioner; he is behind the bars since arrest and no identification parade has been conducted. Learned counsel in support of his submissions, placed reliance upon case laws reported as *2010 YLR 2129, 2005 PCr.LJ 531, 2010 PCr.LJ 1450, 2016 MLD 1103, 2010 MLD 1768, 2018 PCr.LJ Note 28 and 2011 PCr.LJ 1567.*

4. On the other hand, learned State Counsel argued that recovery of looted amount was effected from the petitioner; that petitioner is involved in seven other cases of like nature; the complainant also identified him at the time of identification of his articles; offence alleged is heinous and cannot be taken lightly and that challan has been submitted and trial is in progress, therefore, petitioner is not entitled to the concession of bail.

5. Arguments heard, record perused.

6. As far as delay of seven days in lodging the FIR is concerned, apparently the same had been sufficiently explained by the complainant and yet, if any impact of the same is on the case, that is function of the trial Court to consider it at trial stage and merely on this ground bail cannot be allowed. In like case, the Hon'ble Supreme Court of Pakistan in a Judgment reported as *Mazhar Iqbal V. The State and another* (2010 SCMR 1171) has enunciated a law, the learned High Court granted bail but the same was cancelled by the Hon'ble Supreme Court of Pakistan not considering the delay sufficient for grant of bail. In paragraph No.3 of the said judgment it was held that:-

**“In the present case the explanation of the delay in lodging the FIR, furnished by the complainant can be examined by the trial Court at the appropriate stage when the evidence is recorded in the case and the same is also subject to cross examination. Thus in the peculiar circumstances of the instant case, this require deeper appreciation of the evidence which cannot be undertaken at this stage.”**

**7. The police had recovered looted amount of Rs.3000/- and 30\$ connected with the occurrence from the petitioner and this recovery, prima facie, connects the petitioner with the commission of alleged offence. The Hon’ble Apex Court in case Shoukat Ali alias Shoka V. The State (2004 SCMR 1068) held that:-**

***“that a recovery of cash amount has also been effected from him. Although, it is said by the learned counsel for the petitioner that the cash amount did not belong to the complainant. An affidavit has also been submitted to state that petitioner was a desperate person.”***

**8. The petitioner has criminal record and the details of cases registered against him are as under:-**

- i) FIR No.436/2019, u/s 392 PPC, P.S. Golra Sharif, Islamabad.**
- ii) FIR No.162/2018 u/s 399/402 PPC, P.S. Waris Khan, Rawalpindi.**
- iii) FIR No.163/2018 u/s 13 (2)(A), A.O, 1965, P.S. Waris Khan, Rawalpindi.**
- iv) FIR No.112/2018 u/s 325 PPC, P.S. Pindi Gheb, Attock.**
- v) FIR No.635/2017 u/s 392/411 PPC, P.S. Pirwadhai, Rawalpindi.**
- vi) FIR No.805/2017 u/s 395/412 PPC, P.S. Sadiqabad, Rawalpindi.**
- vii) FIR No.300/2017 u/s 394/411, 397/512, P.S. Pindi Gheb, Attock.**

The aspect of recovery of looted amount and the alleged involvement of petitioner in seven other cases of like nature, cannot be overlooked. In this respect I am guided by the law adjudicated by this Court in case titled **Ameer Hamza V. The State and others** (2017 PCr.LJ 21) wherein it is held in paragraph 8 as under:-

*“The nature of the offence, the recovery of the official motorcycle, the material collected by the prosecution and alleged involvement of the petitioner in ten other registered criminal cases has been rightly made the basis by the learned Judicial Magistrate Islamabad-East and learned Additional Sessions Judge-II Islamabad-East vide their respective orders dated 24.06.2016 and 12.07.2016 for forming an opinion that the petitioner falls within the ambit of the expression ‘desperate’ and ‘dangerous criminal’ and, therefore, not entitled to be released on bail.”*

9. Not one iota of enmity of respondent No.2/complainant with present petitioner/accused has been alleged. No motive has been put forward, no malice has been pointed out, then why complainant would falsely implicate the petitioner? Even no such allegation had been levelled against the police. Reliance is placed upon **Aqeel Ali Mehmood V. The State and another** (2017 PCr.LJ Note 129).

10. The material available on record i.e. recovery of robbed amount, involvement of the petitioner in seven other cases of like nature, maximum punishment provided for the offence is imprisonment up to ten years along with fine, the offence alleged is heinous and is considered

as against the society, therefore, without going into deeper appreciation of the material collected by the prosecution, on the basis of tentative assessment, this Court has come to the conclusion that petitioner is not entitled to the concession of bail at this stage.

11. It is an admitted position that after submission of challan, charge has been framed on 03.02.2020 and case is now fixed for prosecution evidence on 14.09.2020. In the light of case law reported as *Rehmatullah V. State* (2011 SCMR 1332), the courts should not grant or cancel bail when the trial is in progress and proper course for the courts in such a situation, would be to direct the trial court to conclude the trial of the case within a specific period.

12. The case laws relied upon by learned counsel for the petitioner do not extend any help to the petitioner due to having distinct facts and circumstances.

13. In view of above, instant post arrest bail petition being devoid of merits is dismissed. However, the learned Trial Court is directed to conclude the trial within a period of three months after receipt of this order.

14. Needless to mention that above is only tentative assessment for the purpose of instant bail petition only and shall not affect/influence trial of the case in any manner.

(FIAZ AHMAD ANJUM JANDRAN)  
JUDGE