

Form No: HCJD/C-121
ORDER SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

C. M. No.298 of 2020
in
Criminal Misc. No.1027-B of 2020

Muhammad Nawaz.
VS
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.
	02.11.2020.	Mr. Arshad Hussain Yousafzai, Advocate for the applicant/petitioner.

This is an application seeking
reduction in surety and payment of the same
in cash.

2. When confronted as to the reasons
for the application, learned counsel was
unable to assist the Court. However, in the
interest of justice, the instant application is
allowed for the reasons stated in the same.
The surety amount is reduced from
Rs.2,00,000/- to Rs.1,00,000/-. Petitioner
may also furnish surety in cash. The instant
order shall be deemed to be part of order
dated 21.10.2020.

(AAMER FAROOQ)
JUDGE

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Crl. Misc. No.1027-B-2020

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V.

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21.10.2020	<p>Mr. Arshad Hussain Yousafzai and Ms. Abida Mukhtar, Advocates for petitioner. Ch. Adnan Qamar, Advocate for complainant.</p> <p>Complainant in person.</p> <p>Raja Khalid Mahmood Khan, Deputy Attorney General with Humaira Aslam, SI, FIA.</p>
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The petitioner, Muhammad Nawaz seeks bail after arrest in case FIR No.16 dated 11.06.2020 for offences under sections 14 & 16 PECA, 2016 read with sections 406/468/471 & 109 PPC registered at Police Station FIA Cyber Crime Reporting Centre, Islamabad.

2. Respondent No.2 filed a complaint against the petitioner, which resulted in above mentioned FIR, wherein it was alleged that petitioner advertised a vehicle on OLX which was purchased by respondent No.2, however subsequently, it was found that invoice of Indus Motors Company was fabricated and forged.

3. The petitioner applied for bail after arrest, which was dismissed by the court of Sessions vide order dated 31.08.2020.

4. Learned counsel for the petitioner, *inter alia*, contended that none of the offences fall within prohibitory clause of section 497 Cr.P.C.; that the investigation stands concluded; that nothing has been recovered from the possession of the petitioner; that case, against the petitioner, is one of further inquiry;

5. Learned Deputy Attorney General along with learned counsel for the complainant, *inter alia*, contended that there are number of cases of similar nature pending against the petitioner; that even if the case does not fall within prohibitory clause; the grant of bail is not a rule; that in the investigation, the petitioner has been found guilty. Reliance was placed on cases reported as 'Salim Dad Khan Vs. Ghulam Muhammad and others' (2011 YLR 540), 'Muhammad Ali Vs. The State' (2008 P.Cr.LJ 1360), 'Tabbasam Ahmed Qureshi Vs. The State' (2000 P.Cr.LJ 105) and 'Syed Maqsood Hussain Shah Vs. The State' (2007 P.Cr.LJ 171).

6. Arguments advanced by learned counsel for the parties have been heard and the documents, placed on record, examined with their able assistance.

7. The petitioner is implicated of offences mentioned hereinabove.

8. None of the offences fall within prohibitory clause of section 497 Cr.P.C. In such like cases, grant of bail is a rule and refusal is an exception. Reliance is placed on case reported as 'Tariq Bashir & 5-others Vs. The State' (PLD 1995 SC 34).

9. Though on behalf of respondents, it was vehemently argued that there are many other cases of similar nature against the petitioner, however, in light of judgment of the Hon'ble Supreme Court of Pakistan reported as 'Qurban Ali Vs. The State and others' (2017 SCMR 279), mere pendency of FIR of similar nature against an accused is not a ground for refusal of bail unless any one of them has culminated into conviction.

10. The investigation stands concluded and report under section 173 Cr.P.C. has been filed hence petitioner is not required for further investigation.

11. Even-otherwise, during course of arguments, it was enquired from the Investigation Officer whether it has been established from the record that invoice was forged by the petitioner or one Hamza from whom he purchased the vehicle, the answer was that the same is yet to be determined. The case, against the

petitioner, is also one for further inquiry in the said circumstances.

12. In view of above, instant petition is allowed; consequently, the petitioner is enlarged on bail after arrest in the above mentioned case, subject to furnishing bail bonds in the sum of Rs.2,00,000/- with two sureties in the like amount to the satisfaction of learned trial court.

(AAMER FAROOQ)
JUDGE

Zawar