

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

CRL.MISC. NO.940-B /2020

Sajid Mehmood Vs The State & another

Serial No. of order/ proceeding.	Date of order/ proceedings	Order with signatures of judge, and that of parties or counsel, where necessary.
05	16.09.2020	Mr. Zahid Ali Khan, Advocate for petitioner. Ch.Imtiaz Ahmad Gujjar, Advocate for respondent No.2. Mr. Hammad Saeed Dar, State counsel with Gulzar Mehmood A.S.I.

GHULAM AZAM QAMBRANI, J.

The petitioner [Sajid Mehmood] seeks post arrest bail in case FIR No. 101/2019, dated 09.08.2019, under sections 381-A, 201, 413, 75, 411 P.P.C, registered at Police Station Shamas Colony, Islamabad.

2. Brief facts of the case are that on the written report of the complainant [Ghulam Muhammad] above referred F.I.R was lodged against unknown accused person stating therein that his vehicle i.e. Suzuki Mehran No. SGO-6275 alongwith its original registration book, Army Discharge Book, mobile phone, educational testimonials and original fard which were lying in that vehicle, was stolen from Sector I/12, Islamabad, hence the above said F.I.R.

3. The petitioner applied for post arrest bail before the learned Court of learned Judicial Magistrate Section-30, Islamabad- West, which, was rejected vide order dated 22.06.2020. Thereafter, the petitioner/ accused applied for bail after arrest before the learned Additional Sessions Judge-West, Islamabad, which was also dismissed vide order dated 21.07.2020, hence the instant petition.

4. Learned counsel for the petitioner contends that the petitioner is innocent and has falsely been implicated in this case; that the allegations levelled

in the F.I.R are false; that the prosecution without any tangible evidence has involved the petitioner in the instant case; that the case against the petitioner requires further probe; that he is behind the bar since his arrest and no more required for further investigation; that the offences do not fall under the prohibitory clause of Section 497 Cr.P.C. Lastly prayed for acceptance of bail petition.

5. On the other hand, learned counsel for complainant assisted by learned State counsel vehemently opposed the grant of bail to the petitioner contending that the petitioner is a habitual offender; that the petitioner is a record holder and in more than five cases he has been convicted; that he is in the habit of stealing vehicles and scraps the same, therefore, he is not entitled for the concession of grant of bail. Lastly urged for dismissal of the petition.

6. I have heard the arguments of learned counsel for the parties and have perused the material available on record with their able assistance.

7. Tentative assessment of the record shows that F.I.R has been lodged against the unknown accused person. The offence with which the petitioner has been charged do not fall within the prohibitory clause of Section 497 Cr.P.C. Further as per police report, recovery of mobile phone and one lac rupees has been effected from one Sajid Iqbal s/o Niaz Hussain and the said Sajid Iqbal has been convicted in number of cases, whereas there is nothing on record against the petitioner to connect him with the commission of the alleged offence.

8. In the above circumstances bail cannot be refused to the petitioner on the ground of seriousness of offence. Prima facie, the case against the petitioner requires further inquiry as contemplated under Section 497 (2) Cr.P.C. At this stage, deeper appreciation of material available on record is neither desirable nor permissible. The guilt of accused is yet

to be determined by the learned trial Court after recording of the evidence. The Hon'ble Supreme Court of Pakistan in the case reported as "Manzoor & four others Vs The State" (PLD 1972 SC 81), has held as under:-

"It is important to remember that bail is not to be withheld as a punishment. There is no legal or moral compulsion to keep people in jail merely on the allegation that they have committed offences punishable with death or transportation, unless reasonable grounds appear to exist to disclose their complicity. The ultimate conviction and incarceration of a guilty person can repair the wrong caused by a mistaken relief of interim bail 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."

9. So far as the contention of the learned State counsel that similar nature of cases have already been registered against the petitioner is concerned, there is no previous record of the petitioner (Sajid Mehmood s/o Muhammad Niaz) to have been convicted, as such, he cannot be treated as hardened criminal and it cannot be a ground to withhold the concession of bail. Reliance in this regard is placed upon the case reported as "Babar Hussain Vs. The State and another" (2020 SCMR 871) wherein it has been held as under:-

"As far as the contention of learned Law Officer that the petitioner is involved in six other criminal cases would not disentitle him from the relief sought for as learned Law Officer frankly conceded that petitioner has not been convicted in any case, hence, mere involvement in criminal cases could not be a ground to withhold the concession of bail in the given circumstances. Reliance in this regard is placed upon cases titled as "Moundar and others v. The State" (PLD 1990 SC 934) and "Muhammad Rafique v. The State" (1997 SCMR 412)."

10. For what has been discussed above, I **allow** this petition and direct the petitioner to be released on bail subject to his furnishing bail bonds in the sum of Rs.2,00,000/- (two lacs) with one surety and P.R bond of the like amount to the satisfaction of learned trial Court.

11. It is needless to mention here that the observations made hereinabove are tentative in nature and shall not design to influence the trial.

(GHULAM AZAM QAMBRANI)
JUDGE

S.Akhtar