

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

**Criminal Misc. No. 480-B of 2022**

Muddasir Abbasi

Versus

The State and another.

S.No. of order/ proceeding	Date of order/ proceeding	Order with signature of Judge and that of parties or counsel where necessary.
	23.05.2022	Mr. Musharaf Khan, Advocate for the petitioner. Mr. Arif Chaudhry, Advocate for respondent No.2. Mr. Jameel Fayyaz, learned State Counsel. Muhammad Ali, Inspector, Police Station Margalla, Islamabad.

Through the instant petition, the petitioner seeks bail after arrest in case F.I.R. No.35, dated 01.02.2021, offences under section 406, 468, 471, 34 P.P.C registered at Police Station Margalla, Islamabad.

02. It is alleged that the petitioner has taken a car from the complainant on monthly rent and subsequently sold the same to one Yasir, without permission of the complainant by committing cheating and forgery, hence the instant FIR.

03. Learned counsel for the petitioner, *inter-alia*, contends that the petitioner / accused is innocent; he has not committed any offence; no agreement to sell has been executed by the petitioner rather it is executed by Mubashir Abbasi, brother of the petitioner; the complainant is brother-in-law of the petitioner and just in order to settle the score of family dispute, instant case has been registered; offence does not fall under the prohibitory clause of section 497 Cr.P.C.; investigation in the case has been completed, hence petitioner is entitled for grant of bail after arrest.

04. Conversely, learned State Counsel assisted by learned counsel for complainant opposed the instant bail petition and states that the petitioner is specifically nominated in the FIR; sufficient evidence is available against him; he has committed a heinous crime, hence not entitled for grant of bail after arrest.

05. I have considered the arguments

advanced by learned counsel for the petitioner / accused, learned State Counsel and learned counsel for the complainant and perused the record with their able assistance.

06. The petitioner / accused was arrested on 11.3.2022; no recovery has been effected from him during the course of physical remand; car has been recovered from some other person; sale agreement of car has been executed by Mubashir Abbasi, brother of the petitioner; there is no evidence available against the petitioner regarding commission of offences under Section 468 P.P.C; I.O has also admitted that no recovery regarding any instrument / forged document etc. prepared by the petitioner is effected; investigation in the case has been completed; he is not involved in any other case and offence does not fall under the prohibitory clause of section 497 Cr.P.C.

07. It is held by the Hon'ble Supreme Court of Pakistan in cases titled as "**Riaz**

**Jafar Natiq Vs. Muhammad Nadeem Dar" (2011 SCMR 1708), "Abdul Hafeez Vs. The State" (2016 SCMR 1439), "Dr. Abdur Rauf Vs. State" (2020 SCMR 1258) and "Muhammad Ramzan alias JANI Vs. State" (2020 SCMR 717),**

wherein it is held that:

***"where a case fell within non-prohibitory clause of section 497 Cr.P.C. the concession of granting bail must be favorably considered and should only denied in the exceptional circumstances".***

08. Reliance is also placed on the cases titled as "**Tariq Bashir and others VS. The State" (PLD 1995 Supreme Court 34), "Muhammad Tanveer VS. The State and another" (PLD 2017 Supreme Court 733).**

09. Investigation in the case has been completed. The petitioner / accused is previously non-convict. He is no more required by the police for the purpose of further investigation. He is behind the bars

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 him behind the bars for an indefinite period which amounts to punishment without trial.

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

11. In view of above, the petition is **accepted** and the petitioner is admitted to bail subject to furnishing bail bonds in the sum of **Rs. 100,000/- (One Hundred Thousand only)** with one surety in the like amount to the satisfaction of learned trial Court.

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

**(~~TARIQ MEHMOOD JAHANGIRI~~)**  
**JUDGE**

Ahmed Sheikh