

Form No: HCJD/C-121.

**ORDER SHEET**

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

CrI. Misc. No. 677-B of 2020.

Aamir Sohail

*Vs*

The State.

<b>S. No. of order/ proceedings</b>	<b>Date of order/ proceedings</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
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14-05.2020.

Mr Zahid Asif Ch., Advocate for petitioner.  
Mr M. Atif Khokhar, State Counsel.  
Mr Zafar Iqbal, ASI with record.

The petitioner Aamir Sohail son of Talib Hussain has sought post arrest bail in case F.I.R. No. 72, dated 10-02-2020 registered under sections 394, 411, 337-A(i), 337-F(i) of the Pakistan Penal Code, 1860 (hereinafter referred to as "**PPC**") at Police Station Koral, Islamabad.

2. Brief facts, as alleged in the FIR are that on 08-02-2020 at about 02:30 a.m. four unknown persons entered the house of the complainant. They injured the father and mother of the complainant and forcibly took jewellery, cash and other valuable articles. Hence the instant petition.

3. The learned counsel for the petitioner has contended that; the latter is innocent and has not committed any offence; fake recovery has been planted against the petitioner; the petitioner was not nominated in the FIR; no identification parade

was conducted; the FIR was registered against unknown persons; the petitioner was implicated through a supplementary statement; there is delay of two days in registration of the FIR; the petitioner has been incarcerated for more than one month; allegations against the petitioner are false, frivolous, baseless and concocted; the report under section 173 of Cr.P.C. has been submitted before the learned trial Court; investigations qua the petitioner have been completed and he is no more required for the purpose of further investigations; the petitioner has no criminal history; the petitioner is previously non-convict; there are sufficient grounds for further inquiry into the guilt of the petitioner; hence prays for grant of post arrest bail.

4. The learned State Counsel appeared alongwith Zafar Iqbal, ASI. They have contended that; sufficient material is available on record to connect the petitioner with the commission of offence; the stolen articles were recovered on the pointation of the petitioner; the offence is heinous in nature and affects the society; the petitioner has failed to point out any malafide on part of the prosecution; hence urged for dismissal of the present bail application.

5. The learned counsel for the petitioner and the learned State Counsel have been heard and record perused with their able assistance.

6. Perusal of the record reveals that the initially the criminal case was registered against unknown persons. However, subsequently the complainant through supplementary statement

nominated the petitioner and that too on the basis of suspicion. It is noted that no identification parade was conducted to identify the persons involved in the commission of the offence. Even the complainant failed to attribute specific role to the petitioner during the commission of offence in his supplementary statement. Whether or not the offences mentioned in the FIR are attracted to the extent of the present petitioner needs further probe. The recovery also requires further probe because it, prima-facie, does not appear to have nexus with the commission of the offence. The material on record is not sufficient to decline bail. Investigation against the petitioner has been completed and further incarceration of the latter will not serve any useful purpose. Report under section 173 of Cr.P.C. has been submitted before the learned trial Court.. Deeper appreciation of evidence at bail stage is not permissible. The petitioner does not have a criminal record. The continued custody of the petitioner is not likely to serve any beneficial purpose at this stage. Nothing has been placed on record to indicate that the petitioner may abscond if he is released on bail. This Court is, therefore, of the opinion that the petitioner is entitled to be released by extending the concession of bail.

7. It has been aptly observed by the august Supreme Court in the case of "*Manzoor and 04 others vs. The State*" reported as [PLD 1972 S.C. 81] as follows:

*"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”.*

In the light of the facts and circumstances of the present case, refusal of bail will tantamount to punishing the petitioner.

8. In the circumstances as mentioned above, this petition is ***allowed*** and the petitioner is ***admitted*** to bail, subject to furnishing bail bonds in the sum of Rs.5,00,000/- (Rupees five hundred thousand only) with one surety in the like amount to the satisfaction of learned trial Court.

Needless to mention that the observations recorded in the instant petition are based on tentative assessment, which will obviously not prejudice the proceedings before the learned trial Court.

(CHIEF JUSTICE)

*Luqman Khany/\**