

JUDGMENT SHEET  
**ISLAMABAD HIGH COURT**  
**ISLAMABAD**

**Crl. Misc. No.97-B/2020**

**Aamir Sohail**  
Versus  
**THE STATE AND ANOTHER.**

*Petitioner by:* Rai Azhar Iqbal Kharral & Rai Asad Hussain Kharral,  
Advocates.

*Complainant by:* Mr. Rizwan Shabbir Kiani, Advocate.

*State by:* Ms. Bushra Tariq Raja, State Counsel.  
Mr. M. Tariq, A.S.I.

*Date of Hearing:* 17.02.2020.

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**LUBNA SALEEM PERVEZ; J:** Through instant petition, under section 497 Cr.P.C, Petitioner Aamir Sohail s/o Manzoor Ahmad, seeks post arrest bail in case FIR No.277/2019, dated 08.11.2019, registered under Sections 381-A/411 PPC, at Police Station, Shahzad Town, Islamabad.

2. Brief facts of the case are that that Complainant/Respondent No.2 lodged FIR against unknown persons regarding theft of his Honda 125 (black colour) motorcycle bearing Registration No. RNM-9656 having Engine No. 8940014, Chasis No. EA-422241, Model 2017 from outside the boys hostel where the Complainant was residing, however, present Petitioner has been involved in the matter on the pointation of co-accused during investigation.

3. Earlier Petitioner's petitions for bail after arrest were dismissed by learned Judicial Magistrate (East), Islamabad and Acting Sessions Judge (East), Islamabad, vide orders dated 20.12.2019 & 25.01.2020, respectively.

4. Learned counsel for petitioner submits that he has falsely been implicated in the instant case for ulterior motive and malafide intentions on the statement of co-accused given under undue pressure of the Police, whereas, he has nothing to do with the commission of offence as mentioned in the FIR. Learned Counsel further submits that there is an inordinate delay in registration of FIR as the offence was committed on 14.05.2019 but the FIR was lodged after sufficient delay i.e. on

08.11.2019. Moreover, there is no evidence available on record to connect the present Petitioner with the commission of offence, therefore, the case of Petitioner falls within the ambit of further inquiry; and there exists no extra-ordinary circumstances to withhold the benefit of concession of bail to the Petitioner. It is contended that petitioner is previously non-convict and non record holder, no more required for further investigation and ready to furnish solvent sureties to the satisfaction of court if enlarged on bail as keeping him behind the bar for an indefinite period will serve no useful purpose.

5. Conversely, learned Counsel for the Respondent No.3/Complainant as well as learned State Counsel vehemently opposed the bail petition on the grounds that the motorcycle subject matter of the case has been recovered on the joint pointation of the Petitioner and co-accused; Petitioner has also been nominated in several other cases of similar nature along with co-accused who has named him in the present case; therefore, not entitled to the concession of bail.

6. I have heard the learned Counsel for the parties as well as learned State Counsel and have also perused the record with their able assistance.

7. Admittedly, Petitioner is neither named in the FIR nor there is any direct evidence against him. Allegedly, recovery of stolen motorcycle has been effected on the joint pointation of the Petitioner and co-accused yet provisions of section 411, P.P.C. are attracted which entail maximum punishment of three years, hence, does not fall within the prohibitory clause of section 497, Cr.P.C. Petitioner is behind the bars since his arrest and investigation to his extent is complete. Challan has been submitted before the learned trial Court, however, it seems that no trial proceedings has so far been commenced. As far as registration of other cases of similar nature against Petitioner is concerned, it would not be out of place to observe that mere registration of other criminal cases against the petitioner, without conviction, does not disentitle him from the concession of bail. In my view, no useful purpose would be served by keeping the petitioner behind the bars for indefinite period.

8. Apart from above, it is also apparent from the record that the FIR was not promptly lodged and an unexplained delay in lodging the F.I.R. also effects

negatively on the prosecution's case as possibility of consultation and deliberation could not be ruled out and benefit of such doubt also goes in favour of accused.

9. For what has been discussed above instant petition is accepted and the Petitioner is admitted to post arrest bail subject to his furnishing bail bonds in the sum of Rs.50,000 (Rupees Fifty Thousand) with one surety in the like amount to the satisfaction of learned trial Court.

10. The observations made above are tentative in nature and would not effect merits of case of either party.

**(LUBNA SALEEM PERVEZ)**  
**JUDGE**

**Adnan/\***