

**ORDER SHEET**  
**LAMABAD HIGH COURT, ISLAMABAD**  
**(JUDICIAL DEPARTMENT)**

**Criminal Misc. No.647-B/2020**

Muhammad Arslan  
*Versus*  
The State and another

of r/ eedings	Order with signature of Judge and that of parties or counsel where necessary.
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04.2020 Mian Sohail Mehmood, Advocate for the petitioner.  
Mr. Zohaib Hassan Gondal, State Counsel alongwith  
Zubair, A.S.I.  
Complainant in person.

**GHULAM AZAM QAMBRANI, J.:-** The  
petitioner namely, Muhammad Arslan S/o Javed  
Akhtar, seeks post arrest bail in case F.I.R No.306,  
dated 10.07.2018 registered under Sections 392 /  
411 Pakistan Penal Code, 1860, registered with  
Police Station Koral, Islamabad.

2. Briefly stated facts of the prosecution case are  
that on 10.07.2018, F.I.R No.306/2018 was  
registered on the written report of one Raheel Afzal  
Abbasi with the averments that on 09.07.2018, at  
about 12:20am, he was driving his vehicle car  
bearing registration No.LRU-3454 registered with  
Uber Company. In the meantime, at about 12:20am,  
he dropped a passenger at Koral Town, while coming  
back towards Islamabad, when he reached near  
Koral Chok, for attending a phone call; he parked the

vehicle under the bridge. During this time, three persons came over there on a motorcycle, one of them aimed pistol at him and the other sat inside the vehicle. It has further been alleged that the culprits snatched his mobile phone, ATM Card, CNIC, Driving license, Registration Book of the vehicle, cash Rs.2500/- and also snatched the car and flee away towards the Islamabad.

3. The learned counsel for the petitioner has submitted that the petitioner is neither nominated in the F.I.R nor description of any of the accused has been mentioned in the contents of the report. Learned counsel further submitted that the recovery of registration book and mobile phone has been foisted against the petitioner. The learned counsel further contended that on 17.10.2018, the petitioner was arrested in F.I.R No.720/2018 registered with Police Station Pirwadhahi District, Rawalpindi. Since his arrest, he is behind the bars and only two prosecution witnesses have been recorded. Lastly, urged for grant of bail.

4. Conversely, the learned State Counsel vehemently opposed the contentions raised by learned counsel for the petitioner and argued that the petitioner was arrested by the Rawalpindi Police in F.I.R No.720/2018 of Pirwadhahi Police Station

Rawalpindi. During investigation he disclosed the fact to the Rawalpindi police about commission of the offence. On such disclosure, he led the police to a point wherefrom he got recovered the snatched car of the complainant. The learned State counsel further submitted that the person of petitioner was handed over to the police of Islamabad for investigation where he also made disclosure upon which the uncle of petitioner produced the original registration book and snatched mobile phone of the complainant, which was also taken into possession through recovery memo. The learned State counsel further argued that the trial is in progress and lastly, submitted for dismissal of the petition.

5. I have heard the learned counsels for the parties and have gone through the available record.

6. Perusal of the record reveals that admittedly description or body structure of none of the culprits have been mentioned by the complainant in the F.I.R. Furthermore, the identification parade had not been conducted according to the requirements of law. There is no disclosure memo on the record from where one could infer that the petitioner has made a statement before the police; mere saying that the accused has made disclosure is not enough. I have also gone through the Court statement of the

complainant wherein during the cross-examination he has stated that the place of occurrence was a dark place. It is admitted position that the registration book and the snatched mobile phone of the complainant were produced by uncle of the petitioner to the police, which makes the case of petitioner one of further inquiry in terms of Sub-section 2 of Section 497 Cr.P.C. Admittedly, the petitioner was in custody of the police. The evidentiary status of the alleged recovery can be seen and determined by the learned trial Court after recording of the evidence. Challan has already been submitted and statement of complainant has been recorded. There is list of ten more witnesses. The fact remains that he is behind the bars for about one year six months and 10 days since his arrest. Further incarceration of the petitioner will not serve any useful purpose to the prosecution. The Hon'ble Supreme Court of Pakistan, in case reported as "Manzoor and 04 others Vs. The State" (PLD 1972 Supreme Court 81), observed as follows:-

*"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."*

7. For what has been discussed above, the

instant petition is allowed and the petitioner/ accused is granted bail after arrest subject to furnishing bail bonds in the sum of Rs.4,00,000/- (Rupees four lac only) with two sureties (Rs.2,00,000/- each) in the like amount to the satisfaction of the learned Trial Court.

8. Before parting with this order, it is, however, clarified that the observations made hereinabove are just tentative in nature and the same are strictly confined to the disposal of the instant bail petition. The learned Trial Court shall proceed with the trial without being prejudiced from any observation.

**(GHULAM AZAM QAMBRANI)**  
**JUDGE**

*Rana M.Ift. \**