ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Crl. Misc. No. 1365-B/2021

HammadAsad
Vs.
The State & Other.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	13.01.2022	Rana Rashid Javed, Advocate for petitioner. Barrister Hassan Tassdaq Ali, State Counsel along with Amin Watto S.I.

This is post-arrest bail petition by accused/petitioner (*Hammad Asad*) in FIR No. 507,dated 29.09.2021, under Sections406, 420, 467, 468, 471, 411/34-PPC,registered with Police Station, Lohi Bher, Islamabad.

2. According to the allegations set forth in the FIR, petitioner obtained a Toyota corolla car bearing registration No. LEF 4001, on monthly rent of Rs. 60,000/- from the complainant on the assurance of one Umar Younas and subsequently in connivance with co-accused Zunair misappropriated the said vehicle.

3. Learned counsel contended that petitioner has falsely been implicated in this case; that offences alleged do not fall within the ambit of prohibitory clause of section 497 Cr.P.C; that investigation is complete and petitioner is no more required for further investigation, therefore, entitled to the concession of bail. Learned counsel placed reliance upon case laws reported as 2015 SCMR 1575, 2011 SCMR 1614, 2020 PCr.LJ 1661, 2015 PCr.LJ 224 and 2012 YLR 1048.

4. On the other hand, the State Counsel argued that sufficient evidence is available on

recordwhich connects the petitioner with the commission of alleged offence therefore he is not entitled to the concession of bail. In addition, the forged documents allegedly prepared by the accused were also taken into possession by the police during investigation.

5. Heard, record examined.

6. It is settled principle that every criminal case is required to be seen in its own peculiar facts and circumstances. For the exercise of discretion of setting an accused person on bail, it is essential to assess the material collected by the prosecution tentatively to ascertain the involvement of the accused person in the commission of alleged offence.

7. In the present case, petitioner is accused of offence under sections406, 420, 467, 468, 471, 411-PPC.

8. The offences under Section 420 and 471 PPC are bailable while offences under Section 411 and 468 PPC though non bailable but do not fall within the ambit of prohibitory clause of Section 497 Cr. PC.

9. As far as application of offence under Section 467 PPC to the extent of petitioner is concerned, matter calls for further inquiry for the reason that as per investigation, the petitioner obtained the vehicle on rent on the instigation of his brother-in-law/co-accused Zunair, who along with co accused Awais Qureshi prepared forged documents and then further sold the vehicle on the basis of said forged documents.

10. The investigation to the extent of petitioner has been completed and he is no more required for further investigation. The petitioner is behind the bars for almost two months. In such a

situation, further incarceration of the petitioner would serve no useful purpose and the bail cannot be withheld as a punishment. Reliance is placed upon *"Manzoor and 4 others v. The State"* (**PLD 1972 SC 81**) wherein the Hon'ble Supreme Court of Pakistan allowed bail by observing that:-

> "*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 reason able 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.*

11. In view of above tentative assessment, petitioner has made out a case for grant of post arrest bail at this stage. The instant Crl. Misc. is allowed and the petitioner is admitted to bail subject to furnishing bail bondsto the tune of Rs. 100,000/- (*Rupees One Hundred Thousand only*) to the satisfaction of the learned Trial Court.

12. The observations made hereinabove are tentative in nature and shall not prejudice the case of either party.

(ARBAB MUHAMMAD TAHIR)
JUDGE

A.R. ANSARI