ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Crl. Misc. No. 73/2022

Asif Khan
Vs.
The State & another.

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	02.02.2022	Mr. Tahir Habib Kiyani, Advocate for petitioner. Mr. Tariq Muhammad Qureshi, Advocate for respondent. Mr. Muhammad Sohail Gujjar, State counsel along with Rasheed, A.S.I.

Through the instant Crl. Misc, petitioner (Asif Khan) has prayed for bail after arrest in case FIR No. 263, dated 25.03.2021, under sections 395, 412 and 109 PPC, Police Station I-9, Islamabad.

2- According to the allegations set-forth in the FIR, on 24.03.2021, at about 1:15 p.m. within the area of 9th Avenue Signal, four young boys having ages of 25-30 years, riding on motor-cycles intercepted the complainant while armed with dagger and pistols, snatched Rs.1,44,00,000/-.

3- Learned counsel for the petitioner argued that a false case has been registered against the petitioner; that the petitioner has been involved in this case on the statement of co-accused; that identification parade was conducted belatedly; that the recovery of snatched amount is foisted against the petitioner and that the offences do not fall within the ambit of prohibitory clause of Section 497 Cr.P.C., therefore, the petitioner is entitled to the concession of bail.

4- On the other hand, learned State Counsel assisted by counsel for the complainant opposed the above contentions by arguing that the petitioner has been identified during the

identification parade with specific role while recovery of robbed amount has also been effected from him.

5- Arguments heard, record perused.

6- It is settled principle that for deciding bail applications, it is to be seen as to whether prima facie some tangible evidence exists which, if left unrebutted, may lead to draw inference regarding the guilt of the accused. Reliance is placed upon case of *Muhammad Sarfraz Ansari. Vs. State and others.* (**PLD 2021 SC 738**) and *Resham Khan and another v. The State through Prosecutor General Punjab, Lahor*e (**Crl. P No. 950 of 2021**).

7- Record reveals that the petitioner is nominated by the co-accused Bilal in his disclosure before the police authorities regarding the alleged incident. The petitioner was identified by the complainant during identification parade, while he has also got recovered part robbed amount that fell into his share.

8- The record indicates that on the statement of co-accused Bilal, police got photographs of the CCTV Cameras wherein the petitioner can be witnessed easily. No malice or malafide on the part of complainant or police regarding false implication of the petitioner has even been alleged. Even otherwise the offence alleged against the petitioner are non bailable in nature, the recovery of the amount coupled with the identification parade of the accused in the presence of the Judicial Magistrate prima facie disentitles the petitioner to the concession of the bail in a non bailable offence, as the case of the accused does not fall within the exception.

9- In view of the above, sufficient tangible material is available on record, which, prima facie, connects the petitioner with the commission of alleged offence which is not only heinous but

considered to be an offence against the society. The petitioner has not been able to make out a case for grant of post arrest bail at this stage. Consequently, instant criminal miscellaneous is **dismissed**.

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

(ARBAB MUHAMMAD TAHIR)
JUDGE

Kamran