ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Crl. Misc. No. 128/2022

Khan Ullah alias Umar
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.
	22.02.2022	Mr. Muhammad Shaheen Khan, Advocate for petitioner. Mr. Khalid Ahmad, Advocate for respondent No.2/complainant. Mr. Muhammad Zeeshan Babar, State counsel alongwith Sadheer Abbasi, A.S.I.

Through the instant Crl. Misc, petitioner (*Khan Ullah alias Umar]* has prayed for bail after arrest in FIR No. 762, dated 02.12.2021, under sections 395/412 PPC, Police StationRamna, Islamabad.

2- According to the allegations set-forth in the FIR, on the night between 13/14-10-2021, at about 12:30 am, three young boys duly armed, entered the quarter of the complainant, situated in Sector G-12, when the latter along with his servant Suleman was sleeping; the assailants by show of arms, looted cash of Rs.200,000/- three mobile phones and 45-KG metal worth Rs. 50,000/-; that two co accused were present outside the Quarter with a Suzuki van and that after the occurrence, accused fled away and while leaving they locked the Quarter from outside.

3- Learned counsel for the petitioner argued that there is inordinate delay in reporting matter to the police; that recovery is foisted; that identification parade retains no evidentiary value, and that co accused have already been enlarged on bail, therefore, petitioner is entitled to same relief under the principle of consistency. Learned counsel placed reliance upon case laws reported as 2011 SCMR 1142, 2021 P.Cr.L.J. Note 20, 2022 YLR 136, PLJ 2014 Cr.C (Lahore) 280, 2017 MLD 1891 and 1998 P.Cr.L.J. 2287.

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; recovery of robbed amount has also been effected from him; that he is involved in other cases of like nature while offence alleged falls within the ambit of prohibitory clause of Section 497 Cr. P C, therefore, petitioner is not entitled to the concession of bail at this stage.

5- Arguments heard, record perused.

6- Record reveals that the occurrence allegedly took place on the night of 13-14.10.2021 while the complainant opted to report it to the police on 2.12.2021 i.e. with a delay of about more than one and half month and no explanation of delayed approach to the police has been highlighted.

7- Another important aspect of the matter is that the petitioner was allegedly apprehended on 06.12.2021, while the identification parade was conducted with considerable delay on 24.12.2021.

8- The affidavit of the complainant tendered during hearing of post-arrest bail petition of co-accused Zahir Khan etc, is part of record wherein the complainant asserted that the identification parade was conducted after showing him the pictures. This aspect if put in juxtaposition with the fact that the identification parade was conducted with a considerable delay, and that co-accused who were allowed bail were also identified by the complainant, in the same course of identification, makes the case of the petitioner one of further inquiry.

9- In addition, though it is alleged that the petitioner is involved in other cases of like nature yet the fact remains that no instance of his conviction had been pointed out, therefore, mere involvement without conviction cannot be considered as an impediment to extend concession of bail, if it appears that the case is one of further inquiry.

10- Furthermore, the petitioner is not required for further investigation and his incarceration for indefinite period would serve no useful purpose particularly when conclusion of trial is also not insight.

11- Having examined the material placed on record tentatively, for reasons enumerated above, the petitioner has succeeded to make out a case for grant of post-arrest bail at this stage. Consequently, instant criminal miscellaneous petition is **allowed**, petitioner is admitted to post arrest bail subject to furnishing bail bonds in the sum of Rs.1,00,000/- with one surety in the like amount 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