ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Criminal Miscellaneous No. 1231 of 2025

UMER TEHSIN

Versus

THE STATE AND ANOTHER

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	17.07.2025	**Mr. Muhammad Shahzen, Advocate for the Petitioner.** **Rana Hassan Abbas, ADPP.** **Mr. Muhamamad Arif, A.S.I, Police Station Aabpara, Islamabad.**

1. The Petitioner is seeking post-arrest bail in FIR No. 226/2025 dated 11.03.2025 for the offences under Sections 394, 411 and 337-F(ii), Pakistan Penal Code, 1860 **("PPC")** registered with Police Station Aabpara, Islamabad **("Subject FIR")**.

2. The brief facts as per the contents of the F.I.R. are that on 11.03.2025, at approximately 07:05 p.m., the Complainant, Javad Hamid s/o Muhammad Hamid, resident of Village Sainthi, Tehsil Khoi Ratta, District Kotli, Azad Kashmir, currently residing at House No. 2/1B, Street No. 24, Sector G-7/2, Islamabad, was sitting in his black Toyota Corolla bearing registration No. AWD-571, parked outside his in-laws' residence at the aforementioned address. At that time, two unknown assailants, appearing to be of Pashtun origin based on their language and appearance, arrived on a motorcycle. Both were armed with pistols. The motorcycle rider, aged approximately 20–25 years, of strong build, wearing a brown jacket and cream-colored shalwar kameez, dismounted and pointed a

pistol at the Complainant. The second assailant, slim and about 20–21 years of age, wearing a black jacket and cream-colored shalwar kameez, also armed with pistol, approached the Complainant, forcibly pulled him out of the car, and robbed him at gunpoint. The robbers searched the Complainant, snatched his iPhone 16 Pro Max, and took his black-colored wallet from his shirt pocket. The wallet contained Rs. 20,000 in cash, his CNIC, passport copies, and visiting cards. During the incident, the Complainant's cousin, Ali Zulfiqar s/o Muhammad Zulfiqar, was also seated in the vehicle but nothing was found by the robbers on his search. As the assailants attempted to flee, the Complainant tried to apprehend one of them, which led to a physical scuffle. In retaliation, the accused wearing the brown jacket fired shots at the Complainant, hitting him on the right thigh. The other accused also fired shots that struck the vehicle. The assailants then fled the scene on the motorcycle. Upon hearing the gunshots, nearby people gathered, and a call was made to police emergency helpline 15. The injured Complainant was shifted to PIMS Hospital in a private vehicle. The statement of the injured was recorded at PIMS Emergency Ward by ASI along with police officials. The Complainant expressed his ability to identify the accused if brought before him and sought legal action against them for the recovery of his belongings and to bring the culprits to justice. Hence, the Subject FIR was registered on the application of the Complainant.

3. The learned counsel for the Petitioner contends that the Petitioner is not nominated in the FIR and has been falsely implicated due to *mala fide*

and connivance with the local police. It is argued that the Petitioner was already arrested in another FIR No. 184/2025, with the time of occurrence recorded as 7:30 p.m., while the present FIR records the offence at 7:05 p.m., making it physically impossible for him to be present at both scenes. The recovery of Rs. 20,000/- is claimed to be unreliable, as the currency was unmarked. It is also submitted that an eyewitness did not assign any role to the Petitioner, and there are contradictions between statements of the Complainant and the witness. The offence occurred during dark hours, casting doubt on identification. It is further argued that the offences do not fall within the prohibitory clause of Section 497 Cr.P.C., no incriminating evidence is available, investigation is complete, and the Petitioner is no longer required for custodial interrogation. The case is one of further inquiry, and the Petitioner is ready to furnish surety. Reliance is placed on 2020 MLD 1750**,** 2020 YLR 2222**,** 2020 MLD 153**,** 2023 SCMR 999, and 2022 YLR 136.

4. On the other hand, the learned Assistant District Public Prosecutor **("ADPP")** stated that there is sufficient evidence available against the Petitioner to connect him with the commission of a heinous offence which falls within the ambit of prohibitory clause of Section 497 Cr.P.C.

5. I have heard the learned counsel for the parties and have also perused the record.

6. It is a settled principle of law that a deeper appreciation of evidence is not permissible at the bail stage. At this juncture, only a tentative assessment is required to determine whether a case

for the grant of bail is made out. From a tentative assessment of the record, it is evident that although the Petitioner was not nominated in the FIR, the Complainant and his cousin explicitly expressed their ability to identify the assailants if brought before them and later the Petitioner was duly identified during an identification parade conducted in accordance with law, wherein specific role was assigned to him as the one who fired at him, causing a firearm injury. The statement of the Complainant in this regard stands corroborated by the medical report and ballistic evidence.

7. As regards the contention that the Petitioner could not have committed the offence in the instant case due to his alleged arrest in another FIR No. 184/2025, which also pertains to an occurrence on the same date at 7:30 p.m., whereas the present FIR records the time of occurrence as 7:05 p.m., it is noted that the distance between the two places of occurrence is approximately 14.7 kilometers**,** which is a drive of no more than 20 minutes under ordinary circumstances. Therefore, the proximity of time and distance alone does not conclusively rule out the Petitioner's possible involvement in both incidents, particularly in the absence of any definitive material to establish the exact time of his arrest or location at the relevant moments. It is also significant that the Petitioner has been positively identified during a lawful identification parade, with specific and active role attributed to him in the commission of the offence. In such circumstances, the argument regarding time and distance, though relevant, does not at this stage dislodge the prosecution's material connecting the Petitioner with the present offence.

These are matters best left to be determined after recording of evidence at trial.

8. The recovery of Rs. 20,000/-, although unmarked, was produced voluntarily by the Petitioner's father, who also recorded a statement before the police that the amount was handed over to him by the Petitioner on the very day of occurrence. The close proximity in time between the robbery and this transfer of cash, coupled with the Petitioner's subsequent arrest in a separate case, lends credence to the prosecution's version. It is settled law that recovery, though of unmarked currency, does not lose its evidentiary value when coupled with a consistent and voluntary chain of custody and circumstantial corroboration.

9. As to the contention that no role was attributed to the Petitioner by the eyewitness Ali Zulfiqar, it is settled principle that ocular testimony need not be identical in every detail, especially when the witness was under duress during an armed robbery. The positive identification by the injured Complainant, who had a direct and close encounter with the assailant, is sufficient at this stage to connect the Petitioner with the alleged crime.

10. The argument regarding the absence of a light source at the place of occurrence is repelled by the fact that the Complainant was sitting inside a vehicle parked outside a residential area, and the presence of street lights or ambient lighting cannot be ruled out merely due to its absence in the FIR. In any event, this is a factual controversy which can only be resolved after recording of evidence at trial.

11. The alleged offence under Section 394 PPC involves violence, firearm injury, and armed robbery in a residential locality, is punishable with sentence up to life imprisonment, thus attracting the prohibitory clause of Section 497 Cr.P.C. Thus the gravity of the offence, impact on public safety, and credible material connecting the Petitioner to the crime disentitle him to the concession of bail.

12. The case law cited by the learned counsel for the Petitioner is distinguishable on facts, as in the present matter, the Petitioner has been positively identified**,** specific role is assigned, and recovery is linked with the occurrence.

13. In view of the collective strength of the prosecution material, the specific attribution of role**,** positive identification**,** recovery of crime proceeds, and seriousness of the allegations, the Court is of the opinion that granting bail would not be in the interest of justice. Therefore, the instant Bail Petition is hereby **dismissed.**

14. All the observations made hereinabove are tentative in nature and shall have no bearing on the final determination of guilt or innocence by the trial Court.

(MUHAMMAD AZAM KHAN)
JUDGE

ADNAN