Form No: HCJD/C-121.

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Criminal Misc. 53-B/2013

Turab Khan, etc versus The State etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	17.02.2014	Mr. Moazzam Ali Sheikh, Advocate for petitioner. Mr. Sanaullah Zahid, DAG alongwith Raza Muhammad ASI.

The petitioners seek bail in connection with FIR No.03 dated 07.01.2014 under section 379/411 PPC, 14 Foreigner Act, Police Station Aabpara, Islamabad.

2. The allegation against the accused/petitioners is that they came to the Mobile shop of complainant on 06.01.2014 at about 3:30pm and stolen the mobile phone and disappeared. In the evening, one of them was caught from Suharwardi Road, and his name was disclosed as Turab son of Noor Rehman, r/o Afghanistan. Hence, this case.

3. Learned counsel for the petitioners has argued that petitioners/accused have falsely been implicated in this case. Case of petitioners do not fall within the prohibitory clause of section 497 Cr.PC; detention of the petitioners is serving no useful purpose. They are behind the bars since their arrest and no more required for the purpose of investigation. He prayed for grant of bail.

4. Learned Deputy Attorney General has opposed the bail petition vehemently.

5. Arguments heard, record perused.

6. It appears from the record that the accused/ petitioners being Afghan refugees were confined to Khyber Pakhtonkhawa as per Registration Card, issued by NADRA. There is no explanation furnished, as to how they were present at Islamabad. Moreover, the petitioners could not establish ownership of stolen mobile phone which was allegedly foisted upon one of petitioners. Since the petitioners have taken a plea of their involvement against their own property, hence, there requires some strong proof to substantiate the same. The stolen property later on was claimed by the complainant but the petitioners never agitated it before the concerned trial court. At this stage such plea appears to be afterthought. Recovery effected upon both the accused has been identified as they were earlier recognized through CCTV footage which was duly secured by the police, therefore, a very sound material is available against them. Moreover, the petitioners are facing trial which consisting of some PWs. At this stage, when reasonable ground exists to believe tentatively that petitioners are involved in the commission of offence, there appears no ground for grant of bail to them. Since, the petitioners are Afghan nationals, therefore, there is every likelihood of their

obsconsion. In my view, the petitioners are not entitled for grant of bail. Moreover, their case fall within the prohibitory clause of section 497 Cr.PC. Therefore, instant petition is declined.

7. However, expeditious trial is the right of petitioners, therefore, leaned trial court is directed to conclude the same within four months.

(NOOR-UL-HAQ N. QURESHI)
JUDGE

Imran