

Form No:HCJD/C-121
ORDER SHEET
LAHORE HIGH COURT LAHORE
JUDICIAL DEPARTMENT

Case No. **Crl. Misc. No.62426-B of 2023**

Muhammad Saqlain Vs. The State etc.

S.No. of order/ Proceedings	Date of order/ Proceedings	Order with signature of Judge and that of Parties of counsel, where necessary.
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08.11.2023	M/S Waqar Hassan Mir and Malik Ishrat Hussain Advocates for petitioner in Crl. Misc. No.62426-B of 2023. Mian Tabbasum Ali, Advocate for petitioner in Crl. Misc. No. 66107-B of 2023 Mian Shah Abbas, Advocate for petitioner in Crl. Misc. No.62439-B of 2023 Mr. Shahid Mehmood Baig, Advocate for the complainant. Ms. Rashida Parveen, Assistant District Public Prosecutor with Younas SI.
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Through this single order, the three petitions bearing Crl. Misc. No.62426-B of 2023, Crl. Misc. No.66107-B of 2023 and Crl. Misc. No.62439-B of 2023, through which petitioners Muhammad Saqlain, Ghulam Mustafa alias Ali and Sagar Ali seek post arrest bail in case F.I.R No.5243 dated 05.10.2022, registered for offences under sections 302 & 34 PPC, at police station Raiwind City, District Lahore.

2. Arguments heard. Available record perused.
3. As per supplementary statement got recorded by Basharat Ali complainant on the day of registration of the case i.e. 05.10.2022, Muhammad Jahangir Sidhu s/o Maqbool Ahmad Sidhu and Iqbal Hassan s/o Muhammad Tufail alongwith others approached him at police station and informed just after the registration of the F.I.R in hand, that during the night between 3rd/4th of October-2022, when they were heading towards the

house of Muhammad Jahangir on motorcycle near the Dera of Ihtasham co-accused, deceased Shafaqat Ali met them alongwith Ihtasham, petitioners Ghulam Mustafa, Saqlain and Sagar who were then armed with pistols and Shafaqat Ali told them that he was invited by his friends Ihtasham etc. for dinner and being late, friends with him insisted for a sleep over and being so he was with them. When the witnesses departed and were at a distance of 1/1½ acre from the Dera of Ihtasham, they heard 4/5 fireshots but left the place with the understanding that Ihtashm and others are shooting fires to celebrate their compromise with the deceased. Muhammad Jahangir and Iqbal also got recorded their statements in line with supplementary statement of the complainant. During investigation, it has been found that petitioner Ihtasham facilitated by Faisal co-accused and in connivance with and in presence of the petitioners committed murder of Shafaqat Ali. Ghulam Mustafa alias Ali and Sagar petitioners threw dead body into the canal (راجبہ) while motorcycle of the deceased was thrown by Sagar, Saqlain and Ihtasham in nearby 'Rohi Nala'. The petitioners pointed out respective places of actual occurrence, disposal of the dead body and that of the motorcycle of the deceased. Sagar Ali got recovered motorcycle and the pistol used for the perpetration of the alleged offence. No reason for false implication of the petitioners by the complainant or the witnesses could be surfaced during the arguments. The investigation agency has found the petitioners connected with this planned murder while the offence alleged falls within the ambit of prohibitory clause of

section 497 Cr.P.C. Examination-in-chief of four of prosecution witnesses including the complainant stands recorded but they are not being cross-examined by the defence.

4. With regard to the case of Muhammad Saqlain petitioner, it has also been observed that he has again approached this Court for the relief of post arrest bail after withdrawing his earlier bail petition bearing Crl. Misc. No. 28112-B of 2023, after arguments on 29.05.2023. Petition moved by him before the Hon'ble Apex Court as per order dated 06.09.2023 was also dismissed having not been pressed that too after arguments. Then petitioner approached the learned Court of first instance through second bail application which was dismissed by the learned Additional Sessions Judge, Lahore on 21.09.2023 for the reason that petitioner was not having any fresh ground. Now he for the second time has come up to this Court on the ground that his earlier bail petition was not dismissed by this Court as according to the subject order it was "disposed of". Learned counsel for the petitioner has argued that word disposed of does not denote dismissal of the petition being so disposal of an application etc is not to be equated with dismissal.

5. Perusal of the subject order reveals that the then learned Counsel for the petitioner **after arguments** expressed his wish to withdraw that petition, whereupon, petition was "disposed of accordingly".

As per BLACK'S LAW DICTIONARY TENTH EDITION, "disposal" means a patent application's termination by withdrawal, rejection, or grant. In some

countries, the meaning is limited to “rejection”. It further explains as under;

“2. A final settlement or determination < the court’s disposition of the case> while explaining the “informal disposition”. The termination of a case by means other than trial; any action that leads to disposition without conviction and without a judicial determination of guilt, such as guilty pleas and decisions not to prosecute while “disposition without a trial” is explained; ‘the final determination of a criminal case without a trial on the merits, as when a defendant pleads guilty or admits sufficient facts to support a guilty finding without a trial.

The “OXFORD PAPERBACK THESAURUS, INDIAN EDITION” at page 239 shows informal meaning of dispose of as “get shut of”.

According to LAW DICTIONARY ENGLISH-URDU, published by NATIONAL LANGUAGE AUTHORITY, PAKISTAN.

‘Dispose of’

تصفیہ مقدمات کے لیے بھی استعمال ہوتا ہے۔

Per the FIFTH EDITION, The AMERICAN HERITAGE DISCTIONAY of the English Language.

“The word **dispose** also means; *To determine the course of events*: and **dispose of** means; *To finish dealing with something; settle*”:

While discussing the word disposal in case titled “K.R.K Talwar v. Union of India, (Dehli)(DB) reported as 1977 AIR (Delhi) 189: 1977 (13) DLT 310: 1977(1) ILR (Delhi) 138”, Dehli High Court observed as under;

“The words ‘dispose of’ merely mean put an end to the appeal by any of the recognized

methods. We are all aware of the word ‘disposal’ of judicial cases. In fact, every month, statements of disposals are made in respect of each court. These disposals include disposal of all kinds, namely disposals for default, by compromise, etc., that is, not on merits as also disposal on merits. It is well established that when legislature uses a word which has a well understood meaning in the particular contest in which the word is used, then it is presumed to have used the word with the same meaning. The word ‘disposal’ in relation to judicial cases and appeals has always included all kinds of disposals.” (Underlining for emphasis only)

This observation has been given by Dehli High Court while discussing sub-section (4) of Section 9 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1958 (then corresponding to Section 9 (4) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 which reads as under:

“Every appeal under this section shall be disposed of by the appellate officer as expeditiously as possible.”

6. Having benefit from the information mentioned supra, in view of this Court, by disposing of some matter may not mean decision on merit yet the expression of desire to withdraw the petition **after arguments** and the order **disposed of accordingly**, does mean that the matter was contested but as the petitioner agrees to withdraw his bail petition instead of getting it dismissed on merit, he preferred to get it ended without any formal, detailed and reasoned order or formal decision of the Court. So, in other words, the order **“learned counsel for the petitioner wishes to withdraw this petition after arguments. Disposed of accordingly”** means that subject petition terminated,

settled, ended, concluded or closed as desired by the learned counsel for the petitioner after arguments and consideration of the merits of the case. The petitioner even today is not equipped with any fresh ground to justify the institution of the petition in hand bearing Crl. Misc. No. 62426-B of 2023 that being so is not even maintainable.

7. In this view of the matter, I am not inclined to grant relief of post arrest bail to the petitioners. Hence, bail applications moved by Sagar bearing Crl. Misc. No.62439-B of 2023, Ghulam Mustafa alias Ali bearing Crl. Misc. No.66107-B of 2023 and Muhammad Saqlain bearing Crl. Misc. No.62426-B of 2023 respectively are dismissed.

Signed on 21.12.2023.

(Syed Shahbaz Ali Rizvi)
Judge

Approved for reporting.

Judge