

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

**PRESENT:**

MR. JUSTICE ATHAR MINALLAH  
MR. JUSTICE IRFAN SAADAT KHAN  
MR. JUSTICE MALIK SHAHZAD AHMAD KHAN

**JAIL PETITION NO. 441 OF 2023**

*(On appeal against the judgment dated 24.10.2023  
of the Islamabad High Court, Islamabad passed in  
Cr Appeal Nos. 140/2021, 164/2021, 160/2021,  
Jail Appeal No. 139/2021, Cr. Revision No.  
75/2021 and Murder Reference No. 01/2021)*

Shah Nawaz

... Petitioner

**Versus**

The State

... Respondent

For the Petitioner: Mr. Fakhar Hayat, ASC  
Mr. Abdul Wahid Qureshi, ASC

For the Complainant: Mr. Talat Mehmood Zaidi, ASC

For the State: Mr. Ghulam Sarwar Nihung, PG Islamabad  
Mr. Zafar Iqbal, SI

Date of Hearing: 27.05.2025

**ORDER**

**ATHAR MINALLAH, J.-** The petitioner has sought leave against the judgment of the Islamabad High Court, Islamabad dated 24.10.2023. The petitioner along with four co-accused was nominated in Crime Report No. 77 dated 03.03.2017 registered at Police Station Koral, Islamabad for the commission of the alleged offences under Sections 302 / 324 / 148 / 149 / 337-F(ii) / 337-F(i) PPC. The Trial Court upon conclusion of the trial convicted the petitioner under Section 302(b) PPC and sentenced him to death. He was also directed to pay compensation amounting to Rs.100,000/- to the legal heirs of the deceased or in default thereof to further undergo simple imprisonment for six months. The said amount of compensation was ordered to be recovered from the petitioner as arrears of land revenue.



Co-accused Aamir Khan was acquitted from the charge while the other three co-accused were convicted under Sections 337-F(i)/337-F(ii) PPC and were sentenced on different counts. The appeal preferred by the petitioner was dismissed by the High Court and the murder reference was answered in the affirmative. The convictions and sentences of three co-accused were also maintained. However, the High Court convicted all the co-accused of the petitioner namely Saeed Akhter, Sadaq, Zahid and Amir Khan under Section 149 PPC and sentenced them to the period already undergone by them.

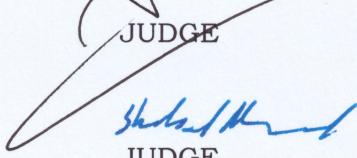
2. We have heard learned counsel for the petitioner, the complainant as also learned Law Officer at length and have perused the record with their able assistance.

3. The occurrence in this case had taken place in a shop at 09:00 PM on 03.03.2017. The two eye-witnesses who had appeared in the witness box as PW-10 and PW-9 i.e. Akmal Mehmood and Sayam Raees respectively had also sustained injuries during the occurrence. The medical evidence was brought on record by Dr. Muhammad Farukh Kamal (PW-4). The two witnesses who had deposed the ocular account were consistent on all material facts and their testimonies have been found by us to be reliable, trustworthy and confidence inspiring. Their testimonies were supported by the medical evidence. The prosecution has proved the guilt of the petitioner beyond a reasonable doubt and we see no reason to interfere with the conviction handed down by the Trial Court and later upheld by the High Court under Section 302(b) PPC. Learned counsel for the petitioner, however, has argued that the factum of motive i.e. a dispute regarding parking of vehicles could not be proved by the prosecution and that the recovery of the crime weapon was also not reliable since it was recovered in a manner which does not appeal to the common sense of



a prudent mind. We have carefully perused the record and we agree that the prosecution had failed in proving the factum of motive set out in the crime report. The petitioner was arrested on 14.03.2017 and he had led to the recovery of the crime weapon on 20.03.2017. The crime weapon was sent to the Forensic Science Laboratory on 30.03.2017. It is noted that the other co-accused had also led to the recoveries of their respective crime weapons from the same spot/plot but separately. Under the circumstances, the recovery in our opinion had lost its evidentiary value and it would not be safe to rely upon it. These mitigating factors did not justify handing down the sentence of death. In view of the above, while maintaining the conviction of the petitioner under Section 302(b) PPC, the sentence of death is altered into imprisonment for life. The amount of compensation and the sentence in default thereof, as ordered by the Trial Court and upheld by the High Court, is maintained. Benefit of Section 382-B Cr.P.C. is also extended in favour of the petitioner.

4. With the above modification in the quantum of sentence, this petition is converted into appeal and partly allowed and the impugned judgment is modified accordingly.

  
JUDGE  
JUDGE  
JUDGE

Islamabad, the  
27<sup>th</sup> of May, 2025  
Not Approved For Reporting  
Khurram