

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Mian Saqib Nisar  
Mr. Justice Asif Saeed Khan Khosa

**Criminal Petition No. 203-L of 2014**

(Against the order dated 04.02.2014 passed by the Lahore High Court, Lahore in Criminal Miscellaneous No. 158-B of 2014)

***Muhammad Shakeel***

*...Petitioner*

*versus*

***The State, etc.***

*... Respondents*

For the petitioner:

Rana Shakeel Ahmad Khan, ASC

For the State:

Ch. Zubair Ahmad Farooq, Additional  
Prosecutor-General, Punjab

For respondent No. 2:

Mr. Adnan Shuja Butt, ASC

Date of hearing:

20.03.2014

**ORDER**

**Asif Saeed Khan Khosa, J.:** Cricket and judicial decision making may not have much in common except that there is an umpire in the game of cricket deciding ‘appeals’ and judging various issues arising during the progress of the game and there may be some judges sitting in their courtrooms who may sometimes be tempted to hit the ball over the boundary rope. Likeness of a judge to an umpire in a game of cricket has already been alluded to by none other than Lord Denning in his judgment delivered in the case of *Jones v. National Coal Board* [(1957) 2 Q.B. 55]. His lordship had observed that “Even in England, however, a Judge is not a mere umpire to answer the question “How’s that?”. His object, above all, is to find out the truth, and to do justice according to law; -----”. Another common factor between the two

is that both cricket and judicial decision making are played/ practised by gentlemen, and now by noble ladies as well. All of us know that cricket has moulded itself over time and has adapted to the requirements of the changing times but judges, being conservative by nature and tradition, have so far been slow in such transformation or adaptation. Keeping pace with the requirements of the modern times as well as constraints of time concomitant thereto a five-day test match in cricket is giving way to a one-day match and even to a blitz called T20 and although Garry Sobers, Hanif Muhammad and Sunil Gavaskar are still idolized for their marathon efforts and long hauls in batting yet the present day heroes are the likes of Shahid Afridi who, notwithstanding the shots they play or the techniques they employ, are applauded for their obsessive, if not neurotic, hitting and for scoring as many runs as possible within the shortest possible time. As against that the judges are generally still sticking to their old and archaic styles of writing their orders and judgments which is causing a disconnect between the judiciary and the litigant public because the decision making is slow, long and out of pace with the influx of cases asking for decision, if not out of sync with the expectations of majority of the stakeholders. We have found the present case to be a classic example of such a disconnect as despite about one hundred and eighty thousand cases pending and clamouring for decision before the Lahore High Court, Lahore the learned Judge-in-Chamber of the said Court had indulged in the luxury of writing as many as twelve pages for dismissing the petitioner's application for bail which matter was merely an interim matter pertaining only to regulating custody of the petitioner during his trial. We feel that the matter could have been decided by the learned Judge-in-Chamber through a much shorter order saving the Court's precious time for attending to other similar matters of urgency.

2. In the background of this Court's accumulated experience over a long period of time and the wisdom gathered through the same we feel that time has come for breaking away from the attitudes and approaches of the past and for out of the box solutions to situations which apparently have no traditional

remedies. In short, we feel that time has come for a game changer and the present petition may be utilized as the watershed. It has appeared to us to be safer to start the proposed judicial repositioning with decisions of applications for bail and then to build on the same on the basis of the experience gathered. With this object and motivation in mind we propose that in future, unless the necessities of the case warrant otherwise, the following shorter format for deciding an application for bail may be adopted by all the courts below:

(i) Without reproducing the particulars and contents of the FIR in detail an order should state directly and briefly the allegation levelled by the prosecution against the accused-petitioner. The details and particulars of the FIR would already be available in the application for bail itself or the same can be gathered from a copy of the FIR attached with such application.

(ii) The details of the arguments addressed by the learned counsel for the parties may not be recorded in the order. It is to be presumed that the court concerned must have heard and attended to all the arguments addressed and the submissions made before it and if one is to look for such arguments the same may be found mentioned in the application for bail. It may be well to remember that an order granting or refusing bail is merely an interim order and the same is not to be equated with a judgment.

(iii) The order should state the reasons for granting or refusing bail to the accused-petitioner as briefly and clearly as possible in the following format:

- (a) -----
- (b) -----
- (c) -----
- (d) -----

It may not be lost sight of that brevity is the soul of wit.

(iv) The order should record the terms of bail, if applicable.

Adopting the said format we now proceed to decide the present petition.

3. Through this petition Muhammad Shakeel petitioner has sought leave to appeal against the order dated 04.02.2014 passed by a learned Judge-in-Chamber of the Lahore High Court, Lahore in Criminal Miscellaneous No. 158-B of 2014 whereby post-arrest bail was refused to him in case FIR No. 274 registered at Police Station Hanjarwal, District Lahore on 20.04.2012 in respect of offences under sections 148, 302 and 149, PPC.

4. After hearing the learned counsel for the parties and going through the record we have observed as follows:

(a) The allegation leveled against the petitioner in the FIR was that at the stated date, time and place he and his co-accused had resorted to firing at the deceased but the petitioner had not been attributed any specific injury and the allegation leveled against him in the FIR was couched in generalized and collective terms.

(b) Admittedly nothing had been recovered from the petitioner's custody during the investigation so as to confirm the allegation of firing leveled against him.

(c) The investigating officer had concluded that the allegation leveled by the complainant party against the petitioner did not stand established during the investigation and as a consequence of such conclusion the petitioner had been opined to be innocent.

(d) According to the FIR the complainant and the other eyewitnesses mentioned therein were available at the relevant time just outside the complainant's house but a bare look at the site-plan of the place of occurrence shows that the complainant and the eyewitnesses could not have seen the incident in issue while standing outside the house of the complainant, particularly when it had never been claimed by them in the FIR and in the statements made before the police under section 161, Cr.P.C. that they had followed the deceased and the accused party to the place of occurrence.

(e) The investigation of this case has already been finalized and a Challan has been submitted and, thus, physical custody of the petitioner is not required at this stage for the purposes of investigation.

5. For what has been observed above we have found the case against the petitioner to be a case calling for further inquiry into his guilt within the purview of subsection (2) of section 497, Cr.P.C. This petition is, therefore, converted into an appeal and the same is allowed and consequently the petitioner is admitted to bail subject to furnishing bail bond in the sum of Rs. 1,00,000/- (Rupees one hundred thousand only) with two sureties each in the like amount to the satisfaction of the learned trial court.

Judge

Judge

Lahore  
20.03.2014  
Approved for reporting.  
Yasin