

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT, BANNU
BENCH.

(Judicial Department)
Cr: Misc: BA No. 461-B / 2025

Inayatullah.

V.

The State etc:

JUDGMENT

Date of hearing: 03.11.2025.

For petitioner: Mr. Muhamamad Rashid Khan
Dirmakhel, advocate.

For the State: Mr. Muhammad Asghar Khan
Ahmadzai, Addl: A.G.

For respondent: Mr. Farooq Khan Sokari, advocate.

ABDUL FAYAZ,J.--

1. By means of this petition, the petitioner (Inayatullah) seeks post-arrest bail in case FIR No. 479 dated 05.06.2023, under Sections-302/34 P.P.C, Police Station, City, District Bannu, lodged on the complaint of Farooq Khan s/o Guldar Ali Khan r/o Peepal Gali Bannu near Daas Chowk Bannu.

2. The brief facts, as narrated in the F.I.R., are that on 05.06.2023 at about 16:35 hours, the complainant Farooq Khan, while present in the casualty department of D.H.Q. Hospital, Bannu, reported the incident to the police. He stated that on the same day, he was present at the shop of Noor Muhammad Khan, whereas his nephew Seenan was present beside the shop of Naeem Khan situated in the street. At about 16:00 hours, a motorcycle

driven by the petitioner, with co-accused Mumtaz Khan riding pillion, stopped near the spot. Both alighted from the motorcycle, took out pistols, and opened indiscriminate firing upon the deceased with the intention to commit his murder. As a result, the nephew of the complainant sustained firearm injuries and succumbed to the injuries on the spot. The motive behind the occurrence was stated to be a previous blood feud between the parties. The report of the complainant was reduced into writing through a murasila, on the basis of which the formal F.I.R. was registered.

3. Arguments of learned counsel for the parties as well as of learned Addl: A.G for the State heard; record perused carefully.

4. A perusal of the record reveals that petitioner is directly charged for the murder of the nephew of complainant in a promptly lodged report. The parties in the light of motive are familiar with each other; hence, there exist no chance of mistaken identity more particularly the incident is of broad day light.

5. The petitioner also sought bail on medical ground as the learned trial court constituted Standing Medical Board (SMB) on the application of petitioner. The report of Standing Medical Board is reproduced as under:-

"1. This patient is moderate risk for future cardiovascular event, which is 14% per year chance of recurrent cardiovascular event as compare to the normal population.

Plan:

Patient should be provided following:

1. Basic Life Support (BLS) should be available through a doctor or paramedic team within the prison.
2. Emergency transfer services to a nearby Critical Care Unit (CCU) should be accessible in case of an event.
3. Currently, the patient does not have an acute cardiac emergency, so continue with the last prescribed medication regimen."

6. So the opinion of the Standing Medical Board is concerned, that does not discloses that the disease to which the petitioner is suffering from, is dangerous to his life and that for the said ailment treatment is impossible in jail premises, therefore, while relying on the case *Mian Nazir Ahmad v. State etc [2016 SCMR 1536]*, the relevant Para is hereby reproduced:-

سائنکل نے چند ماہ گزارنے کے بعد جیل کے معانج سے خود کو پنجاب کے شعبۂ امراض قلب، لاہور برائے رائے ماہرین / معاجمین بھجوایا، جنہوں نے دل کی شریانوں کی مخصوص آلے کے ذریعے نقش گیری مورخہ 10.12.2015 کو کی۔ جس سے معلوم ہوا کہ سائنکل کے شریان قلب کے اندر اضافی ریشہ موجود ہے لہذا جملہ دستاویزات نظر ثانی کمیٹی کے سامنے رکھے گئے اور بعدہ تبادل شریان عمل جرأتی کے ذریعے لگا کر سائنکل کے قلب کو خون کی متواتر فراہمی کو یقینی بنایا اور ہسپتال سے فارغ ہوتے وقت ماہرین امراض قلب نے ان کو جو دوائی تشخیص کی۔ اس کو جاری رکھنے کی ہدایت کی اور آغاز میں ہفتہ دار معائنه کے لئے ہسپتال لانے کی تجویز دی۔

آخری رائے معاجمین کے مطابق سائنکل کے قلب کا عارضہ اب نہ ہونے کے برابر ہے تاہم جو ادویات تجویز کی گئی ہیں ان کو جاری رکھنے کا کہا گیا ہے۔ ماہر معاجمین امراض قلب کی رائے میں اس قسم کا کوئی عندیہ نہیں دیا گیا ہے کہ قید و بند میں رہنے سے سائنکل کی زندگی کو یا صحت کو کوئی سنگین خطرہ لاحق ہے۔

چونکہ عدالت عالیہ لاہور کے دور کنیت پنج نے زیر نظر حکم میں مندرجہ بالا حقائق کا تقابی جائزہ لے کر صحیح نتیجے میں کوئی قانونی یا ضابطے کی کوتاہی نہیں کی کہ جو عدالت عظیمی کی مداخلت کا باعث بن سکے۔

لہذا ایسی صورت حال میں جبکہ سائل دس سال سے زائد عرصہ تک اشتہاری مفرور رہا اور معالجین خصوصی امراض قلب کی رائے اس کے حق میں نہیں ہے اسلئے سائل صفات پر رہائی کا مستحق نہیں گردانا جا سکتا۔ لہذا عرض داشت ہذا ناقابل قبول سمجھی جا کر خارج کی جاتی ہے اور حصول اپیل کی اجازت سے معزرت کی جاتی ہے تاہم سائل کو جیل کے اندر اور معالجین کے مشورہ کے مطابق طبی معافیت کے لئے بلا کسی عذر کے پیش کیا جاتا رہے تاکہ وہ تشخیص کردہ ادویات سے فائدہ مند ہوتا رہے۔

7. Lik-wise in another case "*Abdul Ghafar v. Federation of Pakistan through Secretary, Ministry of Interior, Government of Pakistan and 02 others*" [2021 P.Cr.L.J 1270], of Sindh jurisdiction, where the high Court while rejecting bail plea of accused has observed:-

"We agree that in view of such associated ailments the petitioner need medical treatment and nursing. More importantly the associated diseases of hypertension which apparently the main cause of associated heart diseases he should be away from home stresses and other related tension, routine business issues.

Let us now examine the reported Judgments relied upon by the petitioner's counsel. In the case of Malik Muhammad Yousufullah Khan v. The State reported in PLD 1995 SC 58, the ratio of the Judgment was that the Medical Board constituted was of the view that there was no possibility of treatment of the appellant's injury even in specialized centers of Peshawar but also in other areas of the country, and the Board also recommended immediate treatment of the appellant in a foreign country to avoid disability and this is the Judgment which is relied upon by Supreme Court in the case of Mian Manzoor Ahmad Watto v. The State reported in 2000 SCMR 107.

It is nowhere suggested by the Board that specialized treatment is needed which was the main object for consideration in the above two referred cases. The third case relied upon is of Zakhim Khan Masood v. The State reported in 1998 SCMR 1065. The Medical Board so constituted submitted a report in the aforesaid referred case that the ailment with

the petitioner in the referred case was such that it would have caused hazardous affect on his life and that a conducive condition free from all stresses was prescribed. This case is also distinguishable on the basis of recommendations of Medical Board.

Every disease, if not attended properly, would cause negative and hazardous effect to life but it doesn't mean that its medical remedy is bail for the recovery of such diseases. His treatment in a best available hospital under a care of best team of doctors could serve the best option. These stresses and pressures discussed could only be ruled out if a patient remain away from all these stresses and strains and the best possible place for the prescribed health issues is a Hospital where a patient could be treated free from all such stress possibilities."

8. In view of the foregoing discussion, this Court finds no reasonable ground to extend the extraordinary concession of bail to the petitioner on medical grounds. The record does not reveal that the ailment from which the petitioner is allegedly suffering is of such gravity as to endanger his life or that its treatment is unavailable within the jail premises. The cited precedents also clearly establish that mere illness, in the absence of a life-threatening condition or unavailability of adequate medical facilities, is not a valid ground for release on bail in a case falling within the prohibitory clause. Consequently, this petition being devoid of merit stands dismissed.

SCANNED

06 NOV 2025

Imran Khan
Khalid Khan

Announced.
03.11.2025.

Imranullah PS

(S.B) Hon'ble Mr.Justice Abdul Fayaz

b/11