

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Crl. Misc. No.253-B/2021

Muhammad Naseer

versus

The State & another

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
------------------------------	----------------------------	---

22.04.2021

Syed Khawar Ameer Bukhari, Advocate for petitioner.
Syed Naeem Shah Bukhari, Advocate for Respondent No.2.
Mr. Sadaqat Ali Jahangir, State Counsel.
Asif Khan, S.I., P.S. Ramna, Islamabad

MOHSIN AKHTAR KAYANI, J: Through this

criminal miscellaneous petition, the petitioner has prayed for his post arrest bail in case FIR No.25, dated 21.01.2019, under Section 302/324/34 PPC, P.S. Ramna, Islamabad.

2. Succinctly, on 21.01.2019, when Zahoor Ahmed (Respondent No.2 / complainant) along with his wife Mst. Raheela Bibi (deceased) were heading towards residence, Naseer Khan (petitioner) along with Muhammad Rehman and Fazal Rehman intercepted the complainant and deceased near Abu Huraira Masjid, Dhok Kashmirian, Sector G-12, Islamabad and opened fire upon them hitting the complainant on his chest and left arm, while Mst. Raheela Bibi (deceased) received fire-arm injury on her head. The motive behind the crime was allegedly the contracting of love marriage of complainant with Mst. Raheela Bibi (deceased). After registration of FIR, the petitioner has been arrested

while the other two co-accused persons are still at large. The petitioner applied for his post arrest bail before the learned Additional Sessions Judge-IV (West), Islamabad, which was dismissed vide order dated 13.01.2021. Hence, instant post arrest bail application.

3. Learned counsel for petitioner contends that on the alleged day of occurrence, the petitioner was not present in Islamabad, rather he was in Peshawar, as such, the petitioner being a poor laborer never moved outside Peshawar; that the petitioner is innocent and has falsely been involved in the instant case by the complainant with malafide intention and ulterior motives; that the prosecution story is highly doubtful and does not support the version of the complainant, as such, there is no likelihood of the petitioner's abscondance or influencing the prosecution evidence, if enlarged on bail.

4. Conversely, learned State Counsel as well as learned counsel for respondent No.2 opposed the filing of instant post arrest bail application on the grounds that petitioner is directly nominated in the FIR, who made fatal firing upon the complainant and deceased, as such, the weapon of offence has also been recovered on the pointation of petitioner, per se, challan under Section 173 Cr.P.C. has been submitted against the petitioner, even otherwise, the offence with which petitioner has been charged falls within the prohibitory

clause of Section 497 Cr.P.C., therefore, he is not entitled for concession of post arrest bail.

5. Arguments heard, record perused.

6. Tentative assessment of the record reveals that petitioner has been nominated as accused in case FIR No.25, dated 21.01.2019, under Section 302/324/34 PPC, P.S. Ramna, Islamabad with specific role of committing murder of Mst. Raheela and also causing grievous hurt to her husband Zahoor Ahmad i.e. the complainant, on 21.01.2019, at about 12:20 p.m. in the area of Sector G-12, Islamabad.

7. It has been observed that due to contracting of love marriage of complainant with the deceased lady, the real brother of deceased lady made a murderous attack upon the complainant's family members, as a result whereof, case FIR No.594, dated 22.12.2015, under Sections 302/324/34 PPC, P.S. East Cantt., Peshawar was registered and the real brother of deceased lady was convicted by the learned trial Court at Peshawar.

8. As per stance of the complainant, the petitioner along with other co-accused persons Siyab Khan, Muhammad Rehman and Fazal Rehman chased both the husband and wife i.e. complainant and deceased lady from Peshawar to Islamabad and resorted to firing in the broad daylight near Abu Huraira Mosque, Dhok Kashmirian, Sector G-12, Islamabad, whereby the complainant's wife succumbed to injuries while the

complainant survived from the fire-arm injuries in the alleged incident.

9. The entire record discloses the prima facie involvement of the petitioner in the hideous crime of murder having been committed in a callous, brutal and sensational manner, as such, the offence with which petitioner has been charged falls within the prohibitory clause of Section 497 Cr.P.C., even otherwise, there is no ground of further inquiry argued by the petitioner in this case nor any legal ground to grant post arrest bail is reflected from record. In such circumstances, when challan has already been submitted in the Court on 13.07.2020, charge was framed and even the weapon of offence was recovered on the pointation of the petitioner, he is not entitled for concession of post arrest bail, per se, the other three co-accused persons have been declared proclaimed offenders by the learned Trial Court.

10. In such circumstances, instant post arrest bail application is not made out and same is hereby **DISMISSED.**

(MOHSIN AKHTAR KAYANI)
JUDGE