

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

Crl. Misc. No.716/B/2019.

Jan Muhammad

Versus

The State etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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27.11.2019.

Mr. Sheraz Ahmed Ranjha, Advocate for the petitioner.
Barrister Ayesha Siddique Khan, State Counsel.
Ch. Muhammad Aslam, Advocate for respondent No.2.
Ijaz Gujjar, ASI, P.S Shams Colony, Islamabad alongwith record.

Through instant petition, the petitioner has prayed for his post arrest bail in case FIR No.107/2019, dated 22.08.2019, U/S 337-F(i)/337-F(ii), 337-D, 337-L/34 PPC, P.S Shams Colony, Islamabad.

2. Brief facts referred in the above mentioned FIR lodged on the complaint of respondent No.2/Abid Ali are that on 18.08.2019, at about 12:30 pm, Jan Muhammad (present petitioner), who is his neighbour, had dispute qua electricity bill. The petitioner armed with Churi, his sons Adil armed with hatchet and pistol, Siraj with spade and younger son Faizan attacked upon house of respondent No.2 and resorted aerial firing and pelted stones, thereafter reached to the vegetable shop of Adil brother of respondent No.2/complainant and caused him injuries with hatchet and Churi, in result whereof, said Adil was seriously injured, where-after Jan Muhammad and his son also assaulted respondent No.2/complainant.

3. Learned counsel for the petitioner contends that the FIR has been lodged against the petitioner with malafide intention as complainant party was aggressor, who attacked upon the petitioner and application was filed to the SHO regarding the same incident, which has been recorded and cross-version has

been registered against the complainant party, in which Jan Muhammad (present petitioner) received injuries at the hands of complainant party and in the said incident Adil brother of respondent No.2 also got injured by his own Churi; that two of the accused have been granted bail by learned Trial Court and the offences leveled in the FIR do not fall within prohibitory clause of section 497, Cr.P.C, even investigation has been completed; that weapon of offence Churi has been recovered from the petitioner; that challan has been submitted before the Court and the petitioner is no more required for the purpose of further investigation.

4. Conversely, learned counsel for respondent No.2 contends that the petitioner has been nominated in the FIR with specific role of causing grievous injury to Adil brother of respondent No.2 and even weapon of offence has been recovered from the petitioner; that one of co-accused is still absconder, who is real son of the petitioner and as such if bail has been granted at this stage, it will further trivialize the matter; that the petitioner/accused side has also suffered different injuries in the same incident.

5. Learned State Counsel contends that challan has been submitted in the Court, whereas the petitioner has been nominated with specific role, therefore, it would be appropriate to issue direction to Trial Court to for early conclusion of the trial rather granting bail.

6. I have heard the arguments and perused the record.

7. Perusal of record reveals that the petitioner is nominated accused in case FIR No.107/2019, dated 22.08.2019, U/S 337-F(i), 337-F(ii), 337-D, 337-L/34 PPC, P.S Shams Colony, Islamabad with the allegations that he has caused Churi blow to Adil brother of respondent No.2, which landed on left lateral

deep in the cavity, which is corroborated in the medico legal report issued by the doctor. The case was registered without any delay and the injured Adil was transported to the hospital at 1:50 p.m approximately within an hour of the alleged incident. The role of the petitioner has further been confirmed through statements of the witnesses although the petitioner has highlighted his cross-version of the same incident, in which accused/petitioner side has also received different injuries. The question of cross-version can only be seen at the time of trial, which usually makes the case one of further inquiry but in this case role of the petitioner causing injury is serious in nature and the medico legal report of injured Adil reveals that his kidney has been damaged.

8. The weapon of offence i.e. Churi has been recovered on the pointation of the petitioner on 9.9.2019. One of co-accused real son of the petitioner is still at large. No justifiable reason has been highlighted for causing serious injury to the injured Adil, who has nothing to do with the dispute of respondent No.2 with the present petitioner and said injured Adil has received the injuries only being brother of respondent No.2. I am not convinced to grant post arrest bail to the petitioner as his conduct seems to be of desperate and hardened criminal. Although the offences do not fall within prohibitory clause of section 497 Cr.P.C and bail should be granted in such type of case but the desperate act of the petitioner of causing grievous injury to Adil, whose kidney has been damaged, does not entitle him for any concession of bail. Even though learned counsel for the petitioner tried to convince this Court to consider the cross-version but the same could not be justified by learned counsel for the petitioner during the course of arguments from record.

Moreover, it is not necessary to grant bail in every cross-version case as each case has its own merits.

9. Challan has been submitted in the Court on 11.9.2019 and the trial is likely to commence, therefore, it is appropriate to issue direction to Trial Court for conclusion of the trial within specified period rather granting bail. Reliance is placed upon **2011 SCMR 1332 (Rehmat Ullah vs. The State and another)**.

10. For what has been discussed above, the petitioner is not entitled for grant of post arrest bail, therefore, the instant petition is **dismissed**. However, learned Trial Court seized with the matter is directed to conclude the trial within a period of 06 months from the date of receipt of copy of this order under intimation to this Court.

(MOHSIN AKHTAR KAYANI)
JUDGE

R.Anjam