

FORM NO: HCJD/C

**ORDER SHEET**

**IN THE ISLAMABAD HIGH COURT,  
ISLAMABAD  
JUDICIAL DEPARTMENT**

**Crl.Misc No.233-B of 2013**

Naseem alias Fahim

**Vs.**

The State etc

S.No. of proceedings	Date of order/ proceedings	Order with signature of judge and that of parties or counsel where necessary.
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15.05.2013 Raja Muhammad Nadeem Kiani,  
Advocate for the petitioner.  
Raja Muhammad Shakil Abbasi,  
Standing Counsel assisted by Raja  
Rizwan Abbasi, Advocate for the  
complainant.  
Muhammad Akbar S.I. with record.

Petitioner Naseem alias Fahim s/o Raja  
Hukamdad seeks bail after arrest in case F.I.R. No.22  
dated 13.01.2013, registered u/s 302, 324, 148/149 P.P.C,  
with Police Station Shahzad Town, Islamabad.

2. The prosecution story as enunciated in the  
F.I.R. are that complainant Muhammad Qasim Zafar  
reported to the police that on the fateful day i.e  
13.01.2013 at about 7:15/7:30 p.m he alongwith his  
paternal uncles namely Muhammad Asghar and

Muhammad Najeeb sons of Nizam-ud-Din and Qaisar Rehman was present at their land situated at Mouza Sohan. In the meanwhile accused persons namely Allah Ditta, Wasim and Saqib while equipped with machetes and Fahim (present petitioner) armed with pistol and Imran s/o Mashooq Hussain alongwith two unknown persons carrying batons, who were already present over there suddenly emerged. While raising Lalkara that they would be taught a lesson regarding filing of a case of land, Allah Ditta while brandishing his dagger proceeded towards his uncle Asghar, who in order to save his life turned back, but Allah Ditta gave his dagger blow on his back side which landed on right side of belly, therefore, Asghar fell on the ground. Other uncle of the complainant Najeeb proceeded to save his brother, but accused Wasim gave dagger blow, which landed on lower side of his left ribs. Saqib accused gave dagger blow on Qaiser which landed on lower side of his back. In the meanwhile Faheem shot fire on the complainant but luckily he was saved ~~but~~<sup>2</sup> same hit Allah Ditta (co-accused) on his feet. Due to firing of Faheem Imran (co-accused) also received fire arm injuries. Injured Asghar and Najeeb were removed to the Hospital and subsequently Asghar succumbed to the injuries. On the written application of the complainant the instant F.I.R. was registered.

3. Learned counsel for the petitioner contends that the allegations levelled against the petitioner are false

and frivolous; that nothing has been recovered from the possession of the petitioner; that the case of the petitioner falls within the ambit of further inquiry; that in fact the complainant party was aggressor, who had launched murderous assault upon the petitioner and his family, in which the petitioner's brothers received fire arm injuries and the petitioner received injuries on his head and the petitioner's brother lodged cross version in this respect against the complainant party; that despite prior arrival of the petitioner to the Police Station and thereafter to the Hospital, the police did not register a case; that the investigation has been completed, therefore, petitioner may be enlarged on bail.

4. Conversely, learned Standing counsel assisted by learned counsel for the complainant vehemently opposed the bail. It is contended that the offence falls within the prohibitory clause of Section 497 Cr.P.C; that F.I.R. was lodged promptly and the petitioner is specifically nominated in the F.I.R.; that the complainant has specifically mentioned that the accused party was already present over at the scene of occurrence; that the petitioner facilitated the co-accused in commission of offence; that due to mere non-recovery, the petitioner cannot be enlarged on bail. It is further contended that counter version was got lodged as a counter blast with an inordinate delay of 15 long days; that the accused party has grudge and motive for the commission of offence,

therefore, the petitioner is not entitled to the concession of bail.

5. Heard arguments anxiously and studied the record minutely.

6. Record shows that the name of petitioner specifically figures in the F.I.R. with a specific role, which was promptly lodged. As regards counter version is concerned, it may be pertinently held that the same was got lodged after a considerable delay, which prima facie casts serious doubts. Under the law at the bail stage, it is not permissible to dive deep into the merits of the case, but only cursory perusal of the prosecution evidence and material collected by the Investigating Agency has to be taken into consideration, which prima facie proves the involvement of petitioner in the commission of heinous offence. The petitioner has actively participate in the commission of offence. The present petitioner alongwith co-accused pre-planned a scheme and in execution of such plan participated in the commission of the offence, therefore, the question of vicarious liability is applied with full force. The petitioner is involved in a heinous offence, which otherwise falls within the prohibitory clause of section 497 Cr.P.C. The presence of petitioner at the place of occurrence has not been specifically denied by the learned counsel for the petitioner. At present, the prosecution possesses sufficient incriminating evidence against the petitioner and co-accused

7. To put in a nutshell, the petitioner is not entitled to the concession of bail, consequently the instant bail petition is **dismissed**.

8. It will be relevant to observe that the view expressed in the instant bail petition is purely for the purpose of bail and it shall not prejudice the case of either party at the trial.

  
Sabir

**Noor-ul-Haq-N. Qureshi**  
**Judge**

Uploaded By : Engr. Umer Rasheed Dar