

ISLAMABAD HIGH COURT, ISLAMABAD

NO. _____ IHC/Jude. Deptt.

(REVISED FORM OF BLUE SLIP)

Case No. Crl Misc 702-B-12 200

Titled Amna Bibi

Vs The State

(a) Judgment approved for reporting

✓
Yes / ~~No~~

(b) Judgment any comment upon the Conduct of the
Judicial Officer for Quality of the impugned
judgment is Desired to be made.

Yes / No

(In case the answer is the affirmative Separate
confidential note may be Sent to the Registrar
drawing his Attention to the particular aspect).

Initial of the Judge.

NOTE

1. If the slip is used, the Reader must attach on top of first page of the judgment.
2. Reader may ask the Judge writing the judgment whether the judgment is to be approved for Reporting of any comment is to be made about the Judicial Officer/ quality of judgment.
3. This slip is only to be used when some action is to be taken.

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Cri. Misc. 702-B/2012
Mst. Amna Bibi
Versus
The State

| <i>S. No. of order proceedings</i> | <i>Date of order/ proceedings</i> | <i>Order with signature of Judge and that of parties or counsel where necessary.</i> |
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|------------|--|
| 24-01-2013 | Petitioner Mst. Amna Bibi with her counsel Mr. Muhammad Faisal Malik, Advocate, Mr. Shabbir Ahmad Abbasi learned Standing Counsel with Mr. Waseem Abbasi, Advocate for complainant, Munawar Ali Inspector with Record. |
|------------|--|

ORDER

The petitioner was admitted to ad-interim pre-arrest arrest bail in case FIR No. 327, dated 01-09-2012, under sections 302/34-PPC, registered at PS Koral, Islamabad.

In response to notice, learned Standing Counsel, learned counsel for complainant and the IO [Munawar Ali, Inspector] entered appearance.

Learned counsel submits that petitioner has been declared innocent by the police during investigation as the two eyewitnesses exonerated her from the allegation of common intention, therefore, she is entitled for extra ordinary relief, which is meant to save innocent from humiliation & harassment.

Conversely, learned Standing Counsel assisted by learned counsel for complainant resisted the petition while placing reliance upon case laws cited as **2011 SCMR 170**, **2005 P Cr L J 654**, **2011 MLD 93** and **2000 P Cr. L J 112** wherein it was held that deeper appreciation of evidence, at bail stage, is not permissible in case of pre-arrest bail and the court is supposed to examine as to whether accused had proved mala fide on the part of the complainant or prosecution.

Heard & record perused.

As per contents of FIR, ill-fated incident of this case took place on 31-08-2012, at about 06:30 pm, in the house of complainant Saba Rani widow of Raqeeb Akhtar [deceased of this case] wherein principal accused Nadeem Akhtar [real brother of deceased] had inflicted Churri

7

blow which resulted in death of his real brother Raqeeb Akhtar. The specific allegation against the present petitioner is that she provided a Churri to her husband which the latter used for causing injury. The occurrence was witnessed by Mst. Rakhila Bibi [real mother] and Rizwan Akhtar [real brother] of the deceased & accused.

Record is evident of the fact that both the eyewitnesses [real mother and brother of the deceased and accused], sworn affidavits wherein they exonerated the present petitioner and the police after investigation declared her innocent.

The law on the subject is very specific. In case of "Farhat Hussain Shah and another versus The State and others [201 SCMR 1986], the Hon'ble Apex Court held that mere heinousness of allegations should not stand in the way of grant of pre-arrest bail to any accused, if he is otherwise qualified for the grant of the same.

If a person is otherwise entitled to bail, no useful purpose shall be served by putting him firstly behind the bars and then allowed him/her bail. Courts have to keep a balance. If a fit case for grant of bail is made out, bail before arrest should be allowed in appropriate cases. Guidance in this respect may be solicited from Hidayat Ullah Khan Vs. The Crow [PLD 1949 Lah. 21], Zeeshan Kazmi Vs. The State [1997 P Cr. L] 881], Muhammad Ramzan Vs. Zafar Ullah & others [1986 SCMR 1380] and Ali Gohar & 5 others Vs. The State [2008 P Cr L J 652].

Keeping in view the circumstances of the case and the law on the subject, I am of the opinion that it is a fit case of further inquiry and probe falling u/s 497(2) Cr. PC.

Resultantly, this application is allowed. Ad-interim bail granted to the petitioner vide order dated 19.12.2012 is confirmed subject to already tendered bail bonds.

MUHAMMAD ANWAR KHAN KASI
JUDGE

M.Suhail
24-01-2013

APPROVED FOR REPORTING