

## **ORDER SHEET.**

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

**Crl. Misc. No.715/B/2020.**

Saeed Mumtaz Durrani

Versus

The State etc.

<b>S. No. of order/ proceedings</b>	<b>Date of order/ Proceedings</b>	<b>Order with signature of Judge and that of parties or counsel where necessary.</b>
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20.05.2020.	Raja Rizwan Abbasi, Advocate for the petitioner. Qazi Adil Aziz, Advocate for respondent No.2. Tasaddaq Hussain, Inspector, P.S Aabpara, Islamabad alongwith record.
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Through instant Crl. Misc. petition, the petitioner has prayed for his post arrest bail in case FIR No.326, dated 09.09.2018, U/S 324/452/337-F(vi), PPC, P.S Aabpara, Islamabad.

2. Brief facts referred in the FIR lodged on the complaint of respondent No.2 are that on 08.09.2018 his ex-brother in law (سابقہ ہم زلف) Saeed Mumtaz Durrani (present petitioner) injured Uzma Faisal (wife of respondent No.2) by using firearm weapon and fled away from the scene.

3. Learned counsel for the petitioner contends that this is third post arrest bail petition, which has been filed due to medical condition of the petitioner; that the petitioner has lost his vision from his left eye and his right eye vision has already be deteriorated as the doctor has declared the condition of the petitioner as case of high myopia and in this situation the petitioner is entitled for concession of post arrest bail.

4. Conversely, learned counsel for respondent No.2 contends that trial has already been commenced and the disease, which has been alleged by the petitioner is neither contagious nor

specialized treatment is required, therefore, the petitioner is not entitled for concession of post arrest bail.

5. I have heard learned counsel for the parties and perused the record.

6. Perusal of the record reveals that instant post arrest bail petition is third one, which has been filed on medical ground, whereas earlier two post arrest bail petitions of the petitioner were dismissed on merits, even direction was passed by this Court for early conclusion of the trial. The prosecution has already completed its evidence and only the I.O is left to be cross-examined. The medical ground raised by the petitioner reflects that he is patient of high myopia and he has lost vision from one eye. The medical report to that effect is appended with this petition. The report does not suggest any contagious effect except the prevailing corona situation, which itself is not ground for release of any person from jail. Learned counsel for the petitioner has heavily relied upon *2017 SCMR 1194 (Imtiaz Ahmed vs. State)*, *2020 SCMR 1 (Government of Sindh vs. Dr. Nadeem Rizvi)* and *2019 SCMR 247 (Human Rights case No.17599/2018)*. I have considered all these case laws and I am in agreement with the principles laid down in these case laws, however, the concept right to life in terms of Article 9 of the Constitution has rightly been acknowledged in these case laws. The principles were adhered to by the jail authorities, even medical report shows that the petitioner was given medical treatment as and when required. The alleged disease referred in medical certificate is not contagious, which can conveniently be treated in jail and the same does not appear dangerous to life or even to health. Reliance is placed upon **2005 SCMR 1904 (Ghulam Raza vs. Khuda Bux)**.

7. The purpose of bail on medical ground is to ensure that under trial prisoner is allowed to avail medical treatment or surgical intervention if need be in the hospital of his choice in the country and not to set him at liberty till conclusion of the trial. Reliance is placed upon 2018 SCMR 2023(Sharjeel Inam Memon vs. National Accountability Bureau).

8. For what has been discussed above, the petitioner is not entitled for post arrest bail on medical ground, therefore, instant petition is hereby dismissed. However, Jail Authorities are directed to provide timely medical treatment to the petitioner, if he requires.

(MOHSIN AKHTAR KAYANI)  
JUDGE

R.Anjam