

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

Crl. Misc. No.686-B/2019

Jaffar Hussain Shah

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.
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11.11.2019

Mr. Shehryar Nawaz Malik, Advocate for petitioner.
Mr. Muhammad Idrees Ch., Advocate for Respondent
No.2/complainant.
Barrister Ayesha Siddique Khan, State Counsel.
Muhammad Hanif/ ASI, P.S. Bhara Kahu, Islamabad.

MOHSIN AKHTAR KAYANI, J: The petitioner through this criminal miscellaneous petition has prayed for his post arrest bail in case FIR No.118, dated 29.03.2019, under Sections 324, 337-F(iii) PPC, P.S. Bhara Kahu, Islamabad.

2. Brief facts referred in the instant FIR lodged on the complaint of Mst. Musarrat Bibi/respondent No.2 are that the petitioner on 29.03.2019 fired upon the complainant and caused injury on her left arm. Pursuant to lodging of the aforesaid FIR against the petitioner, the petitioner moved post arrest bail petition before the learned Judicial Magistrate (East), Islamabad, which was dismissed on 27.09.2019. The petitioner thereafter approached the learned Additional Sessions Judge (East), Islamabad by filing of post arrest bail petition, which was dismissed on 10.10.2019. Hence, the instant criminal miscellaneous petition.

3. Learned counsel for petitioner contended that the petitioner has falsely been implicated in the instant case by the complainant on the basis of family grudges; that the post arrest bail to the co-accused has been extended by the learned Additional Sessions Judge, therefore, petitioner is also entitled for the same relief; that no offence is made out

against the petitioner and the case is one of the further inquiry and probe; that the investigation of the case has been completed and the petitioner is no more required for further investigation, therefore, the petitioner may kindly be admitted to post arrest bail.

4. Conversely, learned counsel for complainant as well as the learned State Counsel while opposing the instant post arrest bail petition contended that the petitioner is nominated accused in the FIR with specific role and sufficient material is available on record to connect the petitioner with the commission of offence, that too is distinguishable from the co-accused who had been granted bail by the lower Court, therefore, the petitioner is not entitled for concession of bail.

5. Arguments heard, record perused.

6. Perusal of record reveals that petitioner is nominated in case FIR No.118. dated 29.03.2019, under Section 324, 337-F(iii) PPC, P.S. Bhara Kahu, Islamabad lodged on the complaint of Mst. Mussarat Bibi/respondent No.2 with the allegations that on 29.03.2019, at about 12:45 a.m. in the night, the petitioner resorted to firing using pistol and injured the complainant.

7. The tentative assessment of record reveals that complainant's sister namely Sajida Hussain is married with petitioner, who deserted her after physical assault as the petitioner wanted to enter into another marriage, which constrained Sajida Hussain to live with her sister i.e. complainant.

8. As per medical report, the complainant received firearm injury at medial aspect of left arm, midway between elbow and shoulder joint, which is close to heart. The complainant was treated in the Federal Government Services Hospital at about 1:25 a.m., on 29.03.2019, which reflects that she was immediately taken to hospital and the FIR has been

lodged promptly. The motive is clear at this stage and the identity of petitioner is clearly established from the record.

9. Besides the above referred position, the conduct of petitioner has also been highlighted from record as he remained absconder and when the police tried to arrest him on 07.08.2019, he escaped by use of force with the help of other 10 co-accused persons nominated in another criminal case i.e. FIR No.645/2019, dated 07.08.2019, under Section 353, 186, 224, 225, 382, 506, 147, 149 PPC, P.S. Saddar Beruni, Rawalpindi. Such conduct of petitioner reveals his desperate character, although the record also reflects the previous involvement of petitioner in different criminal cases. The petitioner intended to commit murder of the complainant and injured the complainant by using firearm weapon, and as such, the witnesses also corroborated his presence, therefore, no ground of further inquiry exists in his favour. Moreover, the offence with which the petitioner has been charged falls within the prohibitory clause of Section 497 Cr.P.C. and granting bail to the petitioner, at this stage, would amount to trivialize and playdown the gravity of offence allegedly committed by him.

10. The claim of the petitioner regarding benefit of the rule of consistency is not applicable in this case as the petitioner has been nominated with specific role of causing grievous injury to the complainant through fire-arm, whereas the other co-accused persons, who have been granted bail after arrest, have not been assigned with such role of firing, hence applicability of the rule of consistency is not seen in this regard.

11. In view of above, the petitioner is not entitled for concession of post arrest bail. Resultantly, the instant bail petition is hereby **DISMISSED**.

12. However, while relying upon 2011 SCMR 1332 (Rehmat Ullah vs. The State), the learned Trial Court seized with matter is directed to conclude the trial within the period of six (06) months, under intimation to this Court.

(MOHSIN AKHTAR KAYANI)
JUDGE

Khalid Z.