

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

**Crl. Misc. No.898/2020**  
Fayaz Khan  
*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.
(02)	18.08.2020	

Mr. Muhammad Ilyas Khan, Advocate.  
Mr. Hasnain Haider Thaheem, State Counsel.  
Bakht Munir, Respondent No.2/ complainant in-person.  
Muhammad Ashraf, S.I., P.S. Shahzad Town, Islamabad.

Through this criminal miscellaneous petition, the petitioner has prayed for his post arrest bail in case FIR No.156, dated 13.05.2006, under Section 302/148/149 PPC, P.S. Shahzad Town, Islamabad.

2. Brief facts referred in the instant criminal miscellaneous petition are that Bakht Munir (Respondent No.2/complainant) filed a complaint for registration of FIR with the allegations that on 13.05.2006, at about 06:30 p.m., when he along with Bahadur Said (father-in-law) and Gul Said (brother-in-law) were working at a furnace of bricks, the complainant heard gunshots. The complainant rushed towards the place where latter two persons were working and found them in a pool of blood along with one Nasar Ali and saw fleeing Fayaz Khan (petitioner), Naimat Khan and Gulab Khan along with 2/3 unknown persons while carrying .30 bore pistols. After registration of FIR, the petitioner and his co-accused remained absconders until 30.06.2020, when he was arrested in another criminal case by police officials of P.S. Tangi, District Charsada. The petitioner approached the Sessions Court (East), Islamabad seeking his post arrest bail, though same was dismissed vide order dated 06.08.2020. Hence, the instant criminal miscellaneous petition for post arrest bail.

3. Learned counsel for petitioner contends that the petitioner has falsely been implicated in this case with malafide intention to humiliate him; that the story narrated

by the complainant is concocted and fabricated, even otherwise, there is no ocular account or circumstantial evidence available on record to connect the petitioner with the commission of alleged offence, therefore, petitioner may kindly be enlarged on bail.

4. Conversely, learned State Counsel opposed the post arrest bail application on the grounds that petitioner having been involved in the commission of offence remained absconder for 14 long years until he was arrested in another case, which otherwise connects the petitioner with the commission of offence and disentitles him to concession of bail.

5. Arguments heard, record perused.

6. Perusal of record reveals that petitioner has been nominated as accused in case FIR No.156, dated 13.05.2006, under Section 302/148/149 PPC, P.S. Shahzad Town, Islamabad for committing murder of Bahadur Said, Gul Said and Nasar Ali by making fire shots through his pistol along with his other co-accused.

7. The record reflects that FIR was promptly lodged with specific allegations against the petitioner and accused persons. The petitioner was arrested on 30.06.2020 with elapse of 14 years and as such, he remained absconder, regarding which the petitioner has failed to submit any plausible reason, which otherwise disentitles him for concession of bail notwithstanding merits of the case. Reliance is placed upon 1998 SCMR 190 (Sher Ali vs. The State). Even otherwise, the offence with which petitioner has been charged falls within the prohibitory clause of Section 497 Cr.P.C., especially when allegedly three (03) persons had been done to death by the petitioner and his co-accused. Such desperate conduct of petitioner disentitles him for grant of post arrest bail.

8. Challan has been submitted in Court on 17.08.2020, therefore, it is better to pass direction to the learned Trial Court seized with matter for early conclusion of trial. Reliance is placed upon 2011 SCMR 1332 (Rehmat Ullah vs. The State).

9. In view of above, instant post arrest bail is dismissed. However, the learned Trial Court seized with matter is directed to conclude the trial within the period of 08 months, under intimation to this Court.

**(MOHSIN AKHTAR KAYANI)**  
**JUDGE**

Khalid Z.