

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD. JUDICIAL DEPARTMENT.

Criminal Misc. No. 453/B/2019.

Aflal Ahmed (alias Raja Aflal)

Versus

The State, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	20.08.2019.	Malik Zafar Hussain, Advocate for petitioner. Ms. Saima Naqvi, State Counsel. Ch. M. Kashif Gujjar, Advocate for complainant/ respondent No.2 Azeem, ASI, P.S. Kohsar, Islamabad.

Through this Crl. Misc. petition, the petitioner has applied for post-arrest bail in case FIR No.103, dated 30.03.2019, U/S 342, 337-A(iii), 506(ii)/34 PPC, P.S. Kohsar, Islamabad.

2. Brief facts referred in the FIR registered on the complaint of Muhammad Saleem are that his wife Nabila Shaheen on 26.03.2019 was coming back after taking water from nearby reservoir when Wilayat and his sons stopped his wife and started altercation, whereby on seeing the complainant they left the place and later on Wilayat and his sons came armed with iron rod, 12 bore pistol and attacked upon the wife of complainant whereby present petitioner Aflal Ahmed caused injury on the head of complainant's wife with iron rod, whereas Wilayat physically abused the complainant's wife and third accused resorted to firing.

3. Learned counsel for the petitioner contends that investigation has been completed and petitioner is no

more required for the purposes of investigation and no recovery has been effected; that it is case of cross version whereas another lady namely Farzana Bibi W/o Wilayat and mother of present petitioner have also received injuries at the hands of complainant's side but the said injuries were suppressed; that present petitioner has also filed an application for registration of criminal case for causing injury to his mother; that petitioner is behind the bars for the last 04 months and 10 days and trial has not yet been commenced.

4. Conversely, learned counsel for the complainant as well as learned State Counsel contend that petitioner has been nominated with specific role of causing injury on the vital part of body of Nabila Shaheen and as such petitioner is not entitled for concession of post-arrest bail.

5. Arguments heard, record perused.

6. From the cursory glimpse of record, it reveals that petitioner is nominated in the above mentioned criminal case on the charges of causing blunt injury on the head of Nabila Shaheen with iron rod.

7. The tentative assessment of record reveals that another lady Farzana Bibi aged about 45 years wife of Wilayat Khan and mother of present petitioner have also received two injuries on her skull and on left shoulder in the same incident, whereby, the said injuries have been suppressed by the complainant's side and no explanation has been brought on record to that extent.

The record further reveals that petitioner as well as his father filed complaint against the complainant's side for causing injuries to Farzana Bibi and as such it is a case of cross version which creates a ground of further inquiry.

8. In such type of cases where chances of suppression of real facts by both the parties could not be ruled out and it is yet to be determined as to which party was the aggressor and who was aggressed upon, such verity could only be determined during the trial after elaborate evaluation of the evidence. The case of accused, in such circumstances, becomes one of further inquiry falling within the ambit of Section 497(2) Cr.P.C. Reliance is placed upon 2016 SCMR 1246 (Muhammad Zahid Umar vs. The State, etc.), 2008 YLR 2818 Lahore (Mazhar Hussain vs. The State, etc.) and 2010 P.Cr.LJ 512 Lahore (Muhammad Amir vs. The State.).

8. Investigation Officer states that civil litigation qua the land dispute between the parties is pending before the Civil Court and both the parties are neighbors and are residing in the same vicinity. No recovery of weapon of offence has been effected. Petitioner is behind the bars for the last 04 months and 10 days, whereas co-accused has already been granted post-arrest bail by the trial Court and as such petitioner is entitled for concession of bail.

9. Keeping in view the above background, instant post-arrest bail application is allowed, subject to

furnishing of bail bonds in sum of Rs.2,00,000/- (Rupees Two Lac only) with one surety in the like amount to the satisfaction of learned trial Court.

(MOHSIN 'AKHTAR KAYANI)
JUDGE

Zahid