

## **ORDER SHEET.**

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

**Criminal Misc. No. 747/B/2020.**

Muhammad Latif

*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.
	17.06.2020.	Mr. Sher Afzal Khan Marwat, Advocate for petitioner. Mr. Hasnain Haider Thaheem, State Counsel. Mr. M. Atif Khokhar, Advocate for complainant. Munir Ahmed, Inspector P.S. Khanna, Islamabad.

Through this Crl. Misc., petitioner has prayed for post-arrest bail in case FIR No.262, dated 23.05.2018, U/S 302/148/149 PPC, P.S. Khanna, Islamabad.

2. Brief facts referred in the instant FIR lodged on the complaint of Bakhat Munir/respondent No.3 are that on 23.05.2018 his brother Arshad Khan was murdered by Aurangzeb alias Ranga by inflicting hatchet blow on his head and another blunt injury was caused by co-accused Naveed by using iron rod to the deceased. The present petitioner Muhammad Latif has caused a grievous injury with hatchet to Naseer on his head.

3. Learned counsel for the petitioner contends that petitioner is innocent and has falsely been implicated in this case, who was arrested on 23.05.2018 and has almost served 25 months behind the bars but his trial has not yet been concluded, even role attributed to the petitioner is to the extent of causing injury to

prosecution witness and petitioner has not caused any injury to the deceased; that petitioner has also prayed for post-arrest bail on the ground of statutory delay.

4. Conversely, learned State Counsel as well as learned counsel for complainant contend that trial is likely to be concluded in near future as 12 prosecution witnesses have recorded their statements and only I.O and some police officials are left and as such a direction is required to conclude the trial within this month; that delay caused in conclusion of trial is not attributed to the prosecution, therefore, petitioner is not entitled for concession of bail.

5. Arguments heard, record perused.

6. The tentative assessment of record reveals that petitioner has been nominated in the above mentioned FIR with specific role of causing hatchet blow to the prosecution witness namely Naseer, whereas Arshad Khan was murdered by co-accused Aurangzeb alias Ranga with hatchet blow, who was also injured by another co-accused Naveed through blunt injury.

7. Cursory glimpse of record reflects that petitioner has been charged to the extent of causing injury to the prosecution witness Naseer in terms of Section 337-F(ii) & 337-A(ii) PPC and as such maximum sentence provided in this regard is 03 years. The accused was arrested on the alleged day of occurrence and hatchet was also recovered on his pointation. On the other hand statement of 12 prosecution witnesses

have already been recorded out of total 17 prosecution witnesses, whereas on the other side petitioner has already served 25 months behind the bars. Role attributed to the petitioner is yet to be confirmed during the course of trial, even petitioner has not caused any injury to the deceased, rather caused single injury to prosecution witness only which was not repeated, hence, no useful purpose would be achieved by keeping the petitioner behind the bars.

8. I have gone through the order sheets of trial Court which reflect that case was fixed on 54 dates of hearing whereas Presiding Officer was on leave on 07 dates of hearing and on 19 dates of hearing no prosecution witness was produced, as such the delay in trial is not attributed to the accused side. Reliance is placed upon 2017 YLR 2319 (Muhammad Khalid Vs. State), 2018 P.Cr.L.J 77 (Pervaiz Haider Khan Vs. State) and 2015 SCMR 1696 (Muhammad Afzal Butt alias Aphi Vs. State). While considering this aspect, petitioner is entitled for concession of post-arrest bail on merits as well as on statutory delay, therefore, instant petition is allowed and the petitioner is admitted to post arrest bail subject to his furnishing of bail bonds in the sum of Rs.1,00,000/- (Rupees One Lac only) with one surety in the like amount to the satisfaction of learned trial Court.

(MOHSIN AKHTAR KAYANI)  
JUDGE