

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

Crl. Misc. No.697-B/2020.

Malik Muhammad Haroon
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.
(03)	20.05.2020	Ch. Muhammad Atif, Advocate for the petitioner. Mr. Danish Ishraq Abbasi, Advocate for respondent No.2. Mr. Hasnain Haider Thaheem, State Counsel. Asjad Mehmood, Inspector/SHO and Muhammad Azam ASI, P.S Koral alongwith record.

MOHSIN AKHTAR KAYANI, J: Through the instant criminal miscellaneous petition, the petitioner has prayed for his post arrest bail in case FIR No.176/2020, dated 05.04.2020, U/S 324, 109, 148, 149, 337-F(ii) PPC, P.S Koral, Islamabad.

2. Brief facts referred in the FIR lodged on the complaint of Khizer Hussain/respondent No.2 are that on 05.04.2020 he alongwith his brother Azher Hussain and Labrouer Sajid were working on plot situated in Hamdani Town Ali Poor, at about 4:30 p.m Malik Mastanser and Malik Haroon (present petitioner) alongwith four un-known persons all armed with .30 bore pistols came on the spot on vehicle No.XF 867 and Cultus No.4859 and started firing. Malik Haroon (present petitioner) fired upon brother of respondent No.2 Azher, who escaped, whereas Malik Mastanser shot fire upon respondent No.2, which landed on his left and thereafter fled away from the spot. The dispute among the parties is a plot, regarding which litigation is pending before Civil Court.

3. Learned counsel for the petitioner contends that the petitioner is innocent and has falsely been implicated in this

case; that the petitioner has not been attributed any overt act of causing any injury; that nothing has been recovered from the petitioner; that case of the petitioner does not fall within prohibitory clause of section 497, Cr.P.C.

4. Conversely, learned counsel for respondent No.2 as well as learned State Counsel contends that the petitioner is nominated in the FIR with direct role of firing although no one was injured with his firing but his presence has not been denied by the witnesses before the police during investigation. Learned counsel for respondent No.2 in support of his arguments relied upon 2012 MLD 377 (*Mir Hassan vs. The State*).

5. Learned State Counsel has also opposed instant post arrest bail petition.

6. I have heard the arguments and perused the record.

7. Perusal of the record reveals that the petitioner has been nominated FIR No.176/2020, dated 05.04.2020, U/S 324, 109, 148, 149, 337-F(ii) PPC, P.S Koral, Islamabad with the allegation that he fired upon Azher Hussain brother of respondent No.2/complainant but no injury was caused to him, whereas co-accused injured the complainant.

8. The tentative assessment of the record reflects that the petitioner was only present on the scene although he has been alleged with role of firing but no injury was caused to opposite party. Nothing has been recovered from the petitioner as such case of the petitioner falls within ambit of further inquiry in terms of section 497(2), Cr.P.C. Moreover, intention to murder can only be seen after recording of evidence by the Trial Court. The petitioner is behind the bars since his date of arrest i.e. 05.04.2020. Investigation has been completed and the petitioner is no more required for further investigation. Keeping the petitioner behind the bars would not serve any useful purpose.

9. In view of above, the 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/- with one surety in the like amount to the satisfaction of Deputy Registrar (Judl) of this Court.

(MOHSIN AKHTAR KAYANI)
JUDGE

R. Anjam.