

ORDER SHEET
THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Crl.Misc.No.656-B/2020

Raja Abdul Jalil

Versus

The State and another

Order of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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**05.2020 Mr. Muhammad Asad Qureshi, Advocate for the
petitioner
Mr. Jan Muhammad Khan, Advocate for the
complainant
Hazrat Younas, learned State Counsel with
Rasheed A.S.I.**

Through the instant criminal miscellaneous application, the petitioner, Raja Abdul Jalil S/o Muhammad Ibrahim, seeks bail after arrest in case F.I.R. No.132, dated 14.03.2020, under Sections 324, 337-F(iii) and 34 of the Pakistan Penal Code, 1860 ("P.P.C.") registered at Police Station Koral, Islamabad.

2. Earlier the petitioner's post-arrest bail petitions were dismissed by the learned Courts below, vide orders dated 04.04.2020 and 18.04.2020. Thereafter, the petitioner filed the instant petition for post-arrest bail.

3. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in this case; that the injury was attributed on the right thigh of the injured (which is the non-vital part of the body); that the offence under Section 337-F(iii) P.P.C. does not fall within the prohibitory clause of Section 497(1) Cr.P.C.; that in the F.I.R., the petitioner was also charged with murderous assault (i.e. Section 324 P.P.C.), which is not made out/attracted according to the contents of the F.I.R.; that it is to be seen after the trial whether or not Section 324 P.P.C. is attracted; that the offence (i.e. Section 337-F(iii) P.P.C.) entails

lesser punishment and is to be considered for the purpose of bail; and that the medical evidence is not corroborated to the ocular evidence. Learned counsel prayed for the petition to be allowed and for the petitioner to be released on bail.

4. On the other hand, learned counsel for the complainant, assisted by learned State Counsel, opposed the bail petition by stating that the petitioner is nominated in the F.I.R. with specific role of firing on the complainant's brother; that in consequence of the firing, the complainant's brother received injuries; and that the ocular account is substantiated by the medical evidence; and that the mere fact that the cross version has been claimed by the petitioner with a delay of two days shows that the occurrence in the F.I.R. did take place. Learned counsel prayed for the bail petition to be dismissed.

5. I have heard the contentions of the learned counsel for the parties and perused the record with their able assistance.

6. The allegations levelled against the petitioner was that he along with other co-accused while armed with their respective weapons launched attack upon the complainant's brother who was alleged to have been directed the accused party to stop making aerial firing in the street of his house. Such act of the complainant's brother annoyed the accused persons and the role attributed to the petitioner was that he had made a fire shot on the injured person which hit him on his right thigh.

7. It appears from the record that no doubt the role of effective fire shot on the person of the injured has been specifically assigned to the petitioner coupled with the fact that the F.I.R. was reported with promptitude. However, the keeping in view the motive advanced by the complainant giving rise to a doubt in

a prudent mind about the mode and manner of the occurrence as alleged in the F.I.R. Even otherwise, as per the contents of the F.I.R., the petitioner has not been shown to have repeated the act of firing despite the fact that by then the complainant's brother/injured was at his sole mercy. Thus, the applicability of Section 324 P.P.C. and intention to kill is a question which makes the petitioner's case arguable for the purpose of bail only. Keeping in view the nature of injury on the person of the complainant's brother, at the most Section 337-F(iii) P.P.C. is to be attracted to the case of the petitioner, punishment of which is *Daman* and the Court may also award the punishment of imprisonment of either description for a term which may extend to three years as *Tazir*.

8. For the reasons aforementioned, this petition is allowed. The petitioner is admitted to bail provided he furnishes bail bonds in the sum of Rs.5,00,000/- with two sureties in the like amount to the satisfaction of the learned trial Court.

9. It is clarified that the observations made herein above are tentative in nature and the same shall not prejudice the case of either party during the course of the trial. The grant of bail is also subject to the condition that the petitioner shall appear on each and every date of hearing before the learned Trial Court unless exempted by the learned Trial Court. In case, the petitioner fails to appear before the learned Trial Court on any date of hearing, the bail shall stand cancelled.

(MIANGUL HASSAN AURANGZEB)
JUDGE

Qamar Khan*