

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Criminal Misc. No. 380/B/2019.

Muhammad Khan

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.
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03.06.2019.	Mr. Haroon-ur-Rashid, Advocate for petitioner. Mr. Fareed Hussain Kaif, State Counsel. Mr. Shoukat Mehmood Malik, Advocate for respondent No.2. Munir Khan, S.I, P.S. Tarnol, Islamabad.
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Through this Crl. Misc. petition, the petitioner has applied for post-arrest bail in case FIR No.145, dated 30.03.2019, U/S 324, 336, 148, 149 PPC, P.S. Tarnol, Islamabad.

2. Brief facts referred in the instant FIR got lodged by complainant/respondent No.2 Juma Khan are that on 27.03.2019 his brother Muhammad Aslam was attacked by Muhammad Khan armed with hatchet, Zareen Khan and Abdullah armed with pistol, Noor Gul armed with knuckle duster, Sirgul armed with iron rod, whereby present petitioner Muhammad Khan was ascribed with role of hatchet blow on the face of Muhammad Aslam injured.

3. Learned counsel for the petitioner contends that instant FIR has been lodged on 30.03.2019 with delay of three days after consultation and as such no explanation

has been brought on record regarding the delay in lodging of FIR; that other four co-accused have been granted post-arrest bail by the Sessions Court and as such principle of consistency is applicable in this matter; that medical report does not reflect the sharp edge injury as ascribed in the FIR and even complainant was not present on the scene of occurrence which creates ground of further inquiry; that weapon of offence has not been recovered from the petitioner and investigation has been completed and petitioner is no more required for the purposes of investigation.

4. Conversely, learned State counsel as well as learned counsel for complainant/respondent No.2 contend that petitioner has been ascribed with specific role, which has been corroborated with medical evidence and nine teeth of injured Muhammad Aslam have been broken in the said incident; that hatchet has been used from back side which caused blunt injury and statement of injured was recorded after 3/4 days when he was able to speak for the first time; that medical evidence as well as complaint reflects that matter was immediately reported to the police in the hospital.

5. Arguments heard, record perused.

6. From the tentative assessment of record, it reveals that petitioner has been nominated as accused in case FIR No.145, dated 30.03.2019, U/S 324, 336, 148, 149 PPC, P.S. Tarnol, Islamabad, whereby complaint has narrated the story that on 27.03.2019 at about 5:45 p.m.

when complainant's brother Muhammad Aslam alongwith his driver Gul Khan was present at Sector B-17, main gate and doing excavation work with his excavator, petitioner armed with hatchet and others armed with pistol, knuckle duster and iron rod attacked Aslam Khan and petitioner gave a hatchet blow on the face of Aslam which resulted into causing *itlaf-i-salahiyyat-i-udw* and nine teeth of Aslam were broken which corroborates from medical evidence and even teeth crowns have been fractured.

7. The tentative assessment of record reveals that petitioner has been ascribed with specific role of causing grievous injury to Muhammad Aslam and punishment provided U/S 336 PPC is 10 years which falls within the prohibitory clause of Section 497 Cr.P.C. The role of other co-accused is not visible from medical evidence, who have been granted post-arrest bail and as such the petitioner cannot take benefit on the ground of principle of consistency especially when role attributed to the petitioner *prima-facie* connects him with the alleged crime by way of medical evidence. No ground of further inquiry is visible on record, therefore, petitioner is not entitled for concession of bail. Hence, instant bail petition is hereby dismissed.

8. I.O in attendance states that he has prepared the challan and will submit the same in the Court immediately after Eid-ul-Fitar, therefore, if final report U/S 173 Cr.P.C. is submitted in the Court, learned trial

Court seized with the matter is directed to conclude the trial on or before 31.03.2020 under intimation to this Court.

(MOHSIN AKHTAR KAYANI)
JUDGE

Zahid