

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

Crl. Misc. No.904-B/2020

Ahmed Raza Khan

versus

The State & another

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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27.08.2020

Hafiz Ali Asghar, Advocate for petitioner.

Mr. Muhammad Hashim Khan Mandokhel, Advocate for Respondent No.2

Mr. Hasnain Haider Thaheem, State Counsel.

Abdul Sattar, Inspector, P.S. Bhara Kahu, Islamabad.

MOHSIN AKHTAR KAYANI, J: Through this criminal miscellaneous petition, the petitioner has prayed for his post arrest bail in case FIR No.341, dated 20.09.2016, under Section 302 PPC, P.S. Bhara Kahu, Islamabad.

2. Brief facts as referred in the instant case are that Mulla Jan (Respondent No.2) filed a complaint for registration of FIR against Ahmed Raza Khan (petitioner) on the allegations that on 02.09.2016, his son (Muhammad Wali/deceased) has been shot dead by the petitioner with his 30-bore pistol for the reason that hot words were exchanged between petitioner and deceased about 20 days ago to the incident. The petitioner after his arrest had moved two petitions seeking his post arrest bail, however same were dismissed by learned Additional Sessions Judge vide orders dated 25.11.2019 and 29.07.2020. Hence, the instant criminal miscellaneous petition for post arrest bail.

3. Learned counsel for petitioner contends that petitioner is innocent and has falsely been implicated in this case as petitioner has no concern whatsoever with the alleged

offence, as such the allegations leveled against petitioner are ill founded, baseless and fabricated; that the investigation of the case has been completed and petitioner is no more required for further investigation, even otherwise, petitioner is behind the bars since his arrest i.e. on 04.09.2019 and there is no likelihood of early conclusion of the trial or abscondance of the petitioner, therefore, petitioner may kindly be enlarged on bail till final disposal of the case.

4. Conversely, learned State Counsel as well as learned counsel for respondent No.2 opposed the filing of instant criminal miscellaneous petition on the grounds that petitioner is directly nominated in the FIR and he had avoided his arrest by becoming fugitive from law; that the offence with which petitioner has been charged is most heinous in nature and carries maximum punishment as death sentence; that charge against the petitioner has been framed on 16.12.2019 and there is likelihood of early conclusion of trial as statements of 08 out of 14 prosecution witnesses have been recorded till now, therefore, grant of bail to the petitioner would hamper the proceedings.

5. Arguments heard, record perused.

6. Tentative assessment of the record reveals that petitioner has been nominated in FIR with specific role in the alleged murder of Muhammad Wali (deceased), who was murdered in the house of petitioner. The petitioner had absconded after commission of offence/registration of FIR and remained fugitive from law for three long years till his arrest on 04.09.2019. The Investigating Officer has submitted the challan in the learned Trial Court, even charged has been framed on 16.12.2019, as such, statements of 08 out of 14

prosecution witnesses have been recorded, though the trial could not proceed further due to COVID-19 pandemic.

7. Learned counsel for petitioner contends that the deceased had committed suicide in the house of petitioner and Report No.36 was registered on 03.09.2016, recorded in daily diary of P.S. Bhara Kahu, Islamabad. However, when Investigating Officer of this case has been confronted with this position he contends that said report was incorporated at the behest of said accused to distract the main crime committed by the petitioner, even otherwise, the Investigating Officer of this case i.e. Nawaz/S.I. appeared as PW-6 in the trial and has already been cross examined, therefore, rendering of any view at this stage on the basis of available record might be considered as deeper appreciation of record, which is not permissible, especially when the trial is about to conclude.

8. The petitioner has failed to justify his case for grant of post arrest bail on the ground of further inquiry and even he is unable to demonstrate any justiciable reason for acceptance of instant criminal miscellaneous petition. The petitioner is charged with heinous crime of murder, which falls within prohibitory clause of Section 497 Cr.P.C. and even the petitioner remained fugitive from law, hence he loses normal rights of audience in such circumstances. I have also considered this case from another angle i.e. grant of bail on statutory ground, which is also not justiciable due to the role and conduct of the petitioner.

9. In view of above, the instant post arrest bail petition is hereby DISMISSED. However, while considering the analogy drawn from case reported as 2011 SCMR 1332

(Rehmat Ullah vs. The State), the learned Trial Court seized with the matter is directed to conclude the trial within the period of 06 months, under intimation to this court.

(MOHSIN AKHTAR KAYANI)
JUDGE

Khalid Z.