

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

Crl. Misc. No.754/B/2019.

Mirza Abdul Rehman

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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10.12.2019.

Mr. Ashiq Hussain Tarar, Advocate for the petitioner.
Barrister Ayesha Siddique Khan, State Counsel.
Ch. Muhammad Javed Gujjar, Advocate for respondent No.2.
Naveed, S.I, P.S Lohi Bher, Islamabad alongwith record.

Through instant criminal miscellaneous petition, the petitioner has prayed for post arrest bail in case FIR No.309/19, dated 24.09.2019, U/S 324/452, 337-A(i), 337-A(ii), 337-F(i) PPC, P.S Lohi Bher, Islamabad.

2. Brief facts are that Ashraf Baig/complainant/respondent No.2 got registered the above mentioned FIR with the allegations that on 24.09.2019, at about 12:30 a.m, when he alongwith his family members was sleeping in House No.14, Street No.5, Block-B, Sawan Garden, Islamabad, Mirza Abdul Rehman (present petitioner) his ex-son in law after breaking the door entered in the house and when he tried to go to the room of his daughter and granddaughter he stopped him, upon which he said that he will not spare anyone. On hearing hue and cry his elder son in law Major Mohsin came out from the room and asked the petitioner to leave the house, in the meanwhile the petitioner attacked upon the complainant and Major Mohsin with dagger, injured them and fled away from the scene. The entire incident was witnessed by younger brother of the complaint and other family members.

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

that the FIR has been lodged in order to deprive the petitioner from his custody right of the minor; that challan has been submitted in the Court and the petitioner is no more required for the purpose of further investigation; that the injuries attributed to the petitioner are not grievous in nature, hence, the petitioner is entitled for concession of post arrest bail.

4. Conversely, learned counsel for respondent No.2 and learned State Counsel contend that the petitioner is nominated in the FIR with specific allegations and even weapon of offence has been recovered from him, therefore, he is not entitled for concession of post arrest bail.

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

6. Tentative assessment of record reveals that the petitioner is ex-son in law of complainant/respondent No.2 and has been nominated in case FIR No.309/19, dated 24.09.2019, U/S 324/452, 337-A(i), 337-A(ii), 337-F(i) PPC, P.S Lohi Bher, Islamabad with the allegation that he after breaking the door entered in the house of complainant/respondent No.2 and attacked upon respondent No.2 and his son in law Major Mohsin through dagger and caused injuries to both of them. The conduct of the petitioner prima facie discloses his desperate character, who at odd hours of the night after scaling the wall of the house breaking inside wooden door attacked upon respondent No.2 and his son in law, which shows his intention to commit the crime, even the weapon of offence has been recovered on pointation of the petitioner.

7. Cursory glimpse of record further reflects that similar type of incident had taken place earlier and FIR No.478/2018 was lodged with P.S Lohi Bher, Islamabad, in which the petitioner is facing trial and as such he has violated the earlier bail order. The offence with which the petitioner has been charged falls within

prohibitory clause of section 497, Cr.P.C although it has been argued by learned counsel for the petitioner that injuries caused by the petitioner are simple in nature.

8. While considering the above contention, sufficient material is available on record to connect the petitioner with the crime and ingredients of section 324, PPC are fully attracted in case in hand. Even otherwise offences U/S 337-A(ii) is non-bailable and prima facie the petitioner has committed offence of trespass in odd hours of night and injured respondent No.2 and his son in law, which is also non-bailable and as such there is no material ground to extend benefit of further inquiry to the petitioner at this stage. The Court while dealing with bail matter has only to see whether the accused is connected with the commission of offence or not and for such purpose only tentative assessment of evidence is to be made and deeper appreciation is not called for. The petitioner was armed with deadly weapon as such he is not entitled for concession of bail due to his conduct and previous history and granting bail at this stage would further trivialize the matter, therefore, while relying upon 2004 P Cr. L J 1799 [Peshawar] (Iltaf vs. Asif and another), PLD 2007 Karachi 336 (Amjad Jawed vs. The State), 2007 YLR 2688 [Lahore] (Khalil Ahmad and others vs. The State), 2010 MLD 977 [Lahore] (Noor Muhammad vs. The State and another), 2018 YLR 1226 [Lahore (Multan Bench)] (Haji Muhammad Akram vs. The State and others), 2014 MLD 1454 [Sindh] (Habibullah Shar vs. The State) & 2018 P Cr. L J Note 141 [Peshawar (Mingora Bench)] (Sharafat Ali vs. State and another), the petitioner is not entitled for concession of post arrest bail.

9. Challan has been submitted in the Court and it is appropriate to issue direction to learned Trial Court to conclude

the trial within specified period. Reliance is placed upon 2011 SCMR 1332 (Rehmat Ullah vs. The State and another).

11. For what has been discussed above, the instant petition is dismissed. However, learned Trial Court seized with the matter is directed to conclude the trial within a period of 05 months from the date of receipt of copy of this order under intimation to this Court.

(MOHSIN AKHTAR KAYANI)
JUDGE

R.Anjam