

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN
AT GILGIT**

Cr. P.L.A. No. 05/2013

Before:- Mr. Justice Rana Muhammad Arshad Khan, Chief Judge.
Mr. Justice Raja Jalal-ud-Din, Judge.
Mr. Justice Muzaffar Ali, Judge.

The state

Petitioner/Appellant

Versus

Huzarat Hussain s/o Rawan r/o Darial District Diamer.

Respondent/Accused

**CHARGES UNDER SECTION 302, 114 AND 429 VIDE F.I.R.
NO. 17 & 13-AO VIDE F.I.R NO. 24/2005 DATED 24-04-
2012 P.S. DARIAL DISTRICT DIAMER.**

**PETITION FOR LEAVE TO APPEAL UNDER ARTICLE 61 OF
GILGIT-BALTISTAN (EMPOWERMENT & SELF
GOVERNANCE ORDER) 2009 AGAINST THE IMPUGNED
ORDER DATED 29-04-2013 PASSED BY THE SINGLE
BENCH OF CHIEF COURT GILGIT-BALTISTAN IN CR.
02/2013 WHEREBY THE SINGLE BENCH CHIEF COURT
HAS ACCEPTED BAIL PETITION OF THE
ACCUSED/RESPONDENT.**

**FOR SETTING ASIDE THE IMPUGNED ORDER/DECISION
OF SINGLE BENCH OF THE CHIEF COURT DATED 29-04-
2013 BY CONVERTING THIS PETITION FOR LEAVE TO
APPEAL INTO APPEAL AND JUSTICE, LAW AND EQUITY.**

Present:-

Advocate General Gilgit-Baltistan for the petitioner.
Mr. Sher Alam, Advocate for the respondent.

Date of Hearing: 17-06-2014.

ORDER

RAJA JALAL-UD-DIN, J.... This petition for leave to appeal has been preferred against the order dated 29/04/2013 passed by learned single Judge of the Chief Court Gilgit-Baltistan, whereby application filed under section 497 Cr. P.C for the grant post arrest bail was accepted and the respondent/accused was ordered to be released on bail.

The fact, in short, giving rise to file this petition are that a case F.I.R No. 17/2012 dated 24-04-2012, was registered with police station Darrel u/s 302/114-429 P.P.C for an occurrence which had taken place on 24-04-2012. The case was registered at the instance of Bismillah against Hazarat Hussain respondent herein for causing the murder of Mehoob Ullah and Muhammad Ullah, who was challaned to face the trial. During the course of investigation accused was arrested on 29-04-2012. The respondent moved a post arrest bail petition in the Court of Sessions Judge Diamer. The petition was dismissed vide order dated 22/12/2012 passed by the learned Sessions Judge. He, thereafter, moved a post attest bail petition in the Chief Court Gilgit-Baltistan, which came up for hearing in the court of learned single Judge and the same was accepted vide order dated 29-04-2014, hence this petition.

The learned Advocate General, Gilgit-Baltistan as well as counsel for the respondent have been heard and perused the record.

Admittedly the trial of the respondent was being conducted by the Court constituted under the Juvenile Justice System Ordinance of 2000. The respondent was arrested on 29/04/2012. The examination of the record and the statement made by the learned counsel of respondent at bar indicates that the statements of all the prosecution witnesses have been recorded and the next date of hearing for the recording of statement of accused u/s 342 Cr. P.C. is fixed. It means that the trial is almost concluded.

The learned Advocate General in an answer to question as to whether the respondent has misused the concession of bail. He could not point out any thing from the record. The grounds for the grant of post arrest bail are absolutely different that of cancellation of bail. The perusal of the record transpires that the respondent has not misuse the concession of bail at all and no ground, at this stage of the case, is made out to cancel the bail already granted to him.

He remained in attendance before the court on each and every date of hearing.

On the receipt of challan of this case the same was entrusted to the learned additional & Session Judge Diamer for trial. The learned counsel for the respondent made an application stating therein that the accused is juvenile and case is exclusively triable by the learned Sessions Judge. In view of this the matter was referred to the Chief Court Gilgit-Baltistan for necessary order. The case was accordingly transferred to the Session Court Diamer for trial. It is no body's case that the trial has not been conducted by the Court constituted under Juvenile Justice System Ordinance 2009.

Even otherwise the in-hand case is time barred by **fourteen days (14 days)** for which the learned Advocate General Gilgit-Baltistan has not given any plausible reason to condone the same. On the other hand a valuable right has accrued in-favour of the respondent which can not be taken away without any cogent reason. The law helps the vigilant and not the indolent. The learned Advocate General has not made an application for condonation of the delay.

The respondent has also been declared juvenile by the Court of Competent Jurisdiction and as per his record date of birth of respondent was 02/05/1999, at the time of commission of offence. He was at that time **THIRTEEN YEARS, SEVEN MONTHS & NINETEEN DAYS OLD.**

Without dilating upon the merits and demerits of the case lest it may cause prejudice to the case of either of the party. Since the case in hand is concluded before the trial court and judgment is likely to be given within the shortest possible time. In this view of the matter no case for the cancellation of bail is made out.

In view of what has been discussed above the judgment/order dated 29-04-2013 impugned herein does not suffer from any illegality or infirmity. The petition is merit-less and the same is dismissed.

Chief Judge

Judge

Judge