

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

BEFORE:

1. Mr. Justice Wazir Shakeel Ahmed, Judge

(In Chamber)

Cr. PLA NO. 19/2020

(Against the Judgment/Order dated 03.08.2020 passed by the learned Gilgit-Baltistan Chief Court in Crim. Misc/Bail Petition No. 19/2020

1. Shah Khalid son of Mashroof R/o Kinner presently resides at Chillas

2. The State

Petitioners

Versus

1. ShafayatUllah S/o Abad Khan R/o Kiner Tehsil Chilas District Daimer present in Judicial Lock Up District Jail Diamer
2. Zeb Alam S/o Haji Lal Mast Khan R/o Kiner Tehsil Chilas District Daimer present in Judicial Lock Up District Jail Diamer
3. Ghandal Shah S/o Hadan R/o Kiner Tehsil Chilas District Daimer present in Judicial Lock Up District Jail Diamer
4. Abdul Latif S/o Hadan R/o Kiner Tehsil Chilas District Daimer present in Judicial Lock Up District Jail Diamer
5. Abad Khan S/o Hadan R/o Kiner Tehsil Chilas District Daimer present in Judicial Lock Up District Jail Diamer
6. Lal Mast Khan S/o Hadan R/o Kiner Tehsil Chilas District Daimer present in Judicial Lock Up District Jail Diamer

Respondents/Accused

Present:-

For the Petitioner(s): 1. Mr. Jahangzeb Khan Advocate & Mr. Shakoor Khan Advocate

For the Respondent(s): 1. The Deputy Prosecutor General Gilgit-Baltistan for the State

 2. Mr. Asadullah Khan Sr. Advocate

Date of Hearing:

04.12.2020

JUDGMENT

Date of Detail Judgment:- 11th February, 2021

Wazir Shakeel Ahmed, Judge.....The above titled Cr.PLA has been preferred by the Petitioner against the Order dated 03.08.2020, in Cr. Misc/Bail Petition No. 19/2020 passed by the learned Chief Court Gilgit-Baltistan, whereby, the aforementioned bail petition filed by the present respondents/accused was allowed.

2. Brief facts of the instant lis narrated in the FIR are that on 14.06.2019 the complainant alongwith his father (Mashroof) were going to Chilas Bazar, when they reached near E&T Office Chilas, the accused Shahid, Shoukat, Imanullah, Zeb Alam and Shafayatullah stopped their way and attacked at Mashroof by hitting stones, Dandas, due to which Mashroof became unconscious and fell on the ground, meanwhile, accused Inamullah hit at the head of Mashroof with the handle of his pistol, while, accused Shahid attacked with iron rod resulting into the death of the complainant's father.

3. The present respondents filed an application before the learned Sessions Court, Diamer under Section 497 Cr. PC for grant of post arrest bail. The learned Sessions Judge, after hearing the parties, dismissed the said petition. Being aggrieved with order of the learned Sessions Judge, the respondents preferred a Criminal Miscellaneous No. 19/2020, before the

learned Gilgit-Baltistan Chief Court. It would not be out of context to mention here that during the trial of the above petition, the complainant of the case, filed a transfer petition and the learned Chief Judge Chief Court entrusted the said petition to senior puisne Judge for disposal. The complainant assailed the said order of the learned Chief Judge Chief Court before this Court and which was entrusted to the undersigned for disposal and which was disposed of accordingly, the order is reproduced as under:

No purpose shall be served by going through the contents of the same, suffice it to find that a considerable period of time has elapsed, since, the presentation of bail petition bearing No 19/2020, before the learned Chief Court Gilgit-Baltistan, which seems to be filed on 21.01.2020, so it is just and expedient to dispose of the present petition, with the direction to the learned Chief Judge Gilgit-Baltistan Chief Court, to dispose of the aforesaid bail petition within four corners of law and facts and also keeping in view the attending circumstances of the matter in hand.”

4. Vide my short Judgment/Order, the Cr. PLA No. 19/2020, was partially admitted to the extent of respondents No. 1 & 2, hence no purpose shall be served by discussing the lis to the extent of other respondents i.e respondents No. 3 to 6.

5. The learned Trial Court while rejecting the plea of alibi of the accused Shafayatullah and Zeb Alam has rightly observed that the plea of alibi to the extent of the accused Zeb Alam on the basis of the affidavit in favor of the said accused was not tenable in the eyes of law at the bail stage, as admittedly the lawyers who furnished affidavit in favor of the accused Zeb Alam were

remained mum for a considerable period of time by not bothering to approach the police soon after the occurrence when the occurrence of broad day light murder was came into their knowledge. The learned Trial Court while rejecting the bail has rightly observed that the lawyers failed to file any application before any high ups of police in respect of recording their contention, nor knocked the door of the Court of Justice of Peace for issuing of directions for recording their statement, keeping in view of the above stated position, the affidavit filed by the learned lawyers is rightly held afterthought and to save criminals from the lawful arrest, whose name has been specifically given by the complainant with his role.

6. As far as the case of the Shafayatullah is concerned, a photocopy of biometric receipt and Kashrot Inn Hotel Gilgit in/out sheet of the Hotel was rightly not relied by the Trial Court at the bail stage, specifically in the circumstances where the prosecution has failed to record to the statement of the relevant person i.e the Hotel Manager to substantiate his version.

7. It is regretfully noted that the Lower Court has denied the bail petition of the accused in the case titled “Abdul Hadi vs the State” wherein, plea of alibi was flatly refused by the learned Chief Court on the single ground that the same plea cannot be looked into at the bail stage, in spite of the facts that the case of the accused person in the above case was on the stronger foot than the present one.

8. Above are the detail reasons of my short order dated 04.12.2020, which is reproduced under:

For the reasons to be recorded later, this Cr. PLA No. 19/2020 is partially admitted to the extent of respondents No. 1 & 2 Shafayatullah and Zeb Alam respectively. The impugned order to the extent of above named respondents is hereby set aside. The respondent Shafayatullah shall be taken into custody and committed to judicial Lock up, the respondent Zeb Alam, who has allowed to take part in the examinations shall surrender by himself before the Trial Court on the next date of hearing, failing which the law shall take its own course. Detail judgment shall be followed on separate papers.

The Cr.PLA to the extent of remaining respondents is hereby dismissed, as the case to their extent is almost ripped up before Trial Court.

9. The instant Cr. PLA is disposed of in the above terms

Announced
04.12.2020

Judge

Whether the case is fit for reporting? (**Yes / No**)