

IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN
Cr.Misc. NO.06/2011

Before:-

Mr. Justice Rana Muhammad Arshad Khan, Chief Judge
Mr. Justice Muzaffar Ali, Judge.

Saeed Hussain s/o Muhammad Khan r/o Bar Nagar, District Hunza-Nager.

..... **Petitioner/Accused**

Versus

The State through Police Station, City Gilgit.

..... **Prosecutors/Respondent**

**OFFENCES U/S 302/34, 324, 393 PPC SECTION
13 ARMS ORDINANCE, 1965/ SECTION 188 PPC
VIDE FIR NO. 107/2010, POLICE STATION
GILGIT DATED 27-04-2010.**

**CRIMINAL PETITION FOR LEAVE TO APPEAL
UNDER ARTICLE 60 OF GILGIT-BALTISTAN
(EMPOWERMENT & SELF GOVERNANCE) ORDER,
2009 AGAINST THE JUDGMENT/ORDER DATED
27-05-2011 PASSED BY LEARNED CHIEF COURT
GILGIT-BALTISTAN IN CR.MISC NO. 17/2011,
WHEREBY BAIL PETITION U/S 497 CR. PC OF
PETITIONER HAS BEEN DISMISSED.**

Present:-

Advocate General for State.
Moin Haider Accused.

Dated of hearing 24-04-2013

ORDER

Rana Muhammad Arshad Khan, CJ: The case FIR No. 107/2010, dated 22-04-2010, was registered on the application of Zarbali s/o Niaz Baig under Section 302/34, 324, 393 PPC, with Police Station Gilgit City, district Gilgit.

It has been disclosed in the FIR that the complainant was performing his job as Driver in Pak Army (Signal). Qayyum Khan younger brother of the complainant had been

residing with Khuda Madad in Talib Shah Colony in a rented house, who had invited the complainant for a dinner on 24-04-2010. He reached at their residence to attend the dinner, where another invited person Rehmat Dad was also present. The complainant after taking his meal, was busy in washing his hands when all of a sudden, a young man with muffled face armed with a pistol entered into the room and asked them to give him all the money and other valuable things. All the persons who were present at that time put forth their resistance. The accused person resorted to firing, a bullet had hit Qayyum Khan who fell on the ground and other accused persons who were standing outside the door of the room also resorted to indiscriminate firing and one bullet had hit the muffled accused person who also fell on the ground.

Khuda Madad and Rehmat Dad also sustained fire arm injuries. The complainant immediately went outside the room and one of the accused person namely Moin Haider was overpowered by him at the spot and felled him on the ground, meanwhile, local Police reached at the place of occurrence and the accused person was handed over to the Police. When complainant again entered into the room Qayyum Khan (his brother) and accused person were found dead.

On the registration of the case, the necessary investigation was carried out and on the conclusion of the

investigation, the Challan was submitted in the Court on 15-05-2010, against Saeed Hussain and Ather Kamal while placing their names in the column No. 2 of the report prepared under Section 173 Cr. PC, whereas, the name of Moin Haider was shown in the column No. 3 of the aforesaid report. The perusal of the record further reveals that the Supplementary Challan was also submitted on 08-02-2011.

Saeed Hussain and Moin Haider moved their post arrest bail applications under Section 497 Cr. PC in the Court of learned Sessions Judge, Gilgit. The learned Sessions Judge heard both the applications together, and after hearing the parties, accepted the bail application of Moin Haider on the ground of his minority, whereas, the application of Saeed Hussain was dismissed vide order dated 13-04-2011.

Saeed Hussain feeling aggrieved and dissatisfied with the order moved a post arrest bail application in the Chief Court, Gilgit-Baltistan. The learned single Judge of the Chief Court dismissed the application vide order dated 27-05-2011 and also observed that Moin Haider who was caught at the spot was granted bail without adhering to the legal provision but no notice for cancellation of the bail was issued to him. On the other hand the state also remained ignorant to move for the cancellation of the bail

already granted by learned Sessions Judge in an improper exercise of Jurisdiction to Moin Haider.

Saeed Hussain preferred a petition for leave to appeal against the order dated 27-05-2011 passed by learned single Judge of the Chief Court Gilgit-Baltistan whereby the bail petition of the petitioner was dismissed. This Court vide order dated 13-09-2011 dismissed the petition and issued a notice to Moin Haider to the effect as to why, bail already allowed to him by the learned Sessions Judge, Gilgit may not be recalled.

The Advocate General Gilgit-Baltistan on 13-09-2011 had also undertaken to move a petition for the cancellation of the bail granted to Moin Haider.

Learned Advocate General, present in court today, at the very outset of the proceedings of the case, submits that he did not moved a formal application for cancellation of bail of Moin Haider granted by Learned Sessions Judge as Moin Haider had got himself absconded and did not appear before the trial court during the proceedings of the case. Learned Sessions Judge Gilgit vide order dated 15-03-2011 had already recalled the bail granting order dated 13-04-2011 on account of non-appearance of accused and at the same time issued warrants of his arrest and subsequent thereto, Moin Haider was arrested in pursuance of the warrants issued by the learned trial Court and now, the trial is in progress. Learned Advocate

General informs the Court with regard to the progress of the case that evidence of the prosecution witnesses has almost been recorded by the trial Court and the accused is now to be examined under Section 342 Cr. PC and the trial likely to be concluded very soon.

In view of what has been discussed above, no further action is left to be taken. The notice already issued by this Court stand discharged and the petition is disposed of accordingly.

Chief Judge

Judge