

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

**PRESENT:**

MR. JUSTICE MUNIB AKHTAR

MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

**CRIMINAL PETITION NO. 328 OF 2023**

(On appeal against the order dated 08.03.2023  
passed by the Lahore High Court, Lahore in CrI. Misc.  
No. 15722-B/2023)

Muhammad Ali

... Petitioner

**VERSUS**

The State and another

... Respondents

For the Petitioner: Mr. Azmat Ullah Chaudhry, ASC

For the State: N.R.

Date of Hearing: 18.04.2023

**ORDER**

**SAYYED MAZAHAR ALI AKBAR NAQVI, J.**- Through the instant petition under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has assailed the order dated 08.03.2023 passed by the learned Single Judge of the Lahore High Court, Lahore, with a prayer to grant post-arrest bail on statutory ground in case registered vide FIR No. 1385 dated 10.10.2020 under Sections 324/148/149/337-L(i)/337-D/337-F(v)/337-F(iii)/336 PPC at Police Station South Cantt, District Lahore, in the interest of safe administration of criminal justice.

2. Briefly stated the allegation against the petitioner is that he along with his co-accused while armed with firearms launched a murderous attack on the complainant party and due to the firing made by the petitioner and co-accused, as many as eight persons from the complainant party sustained injuries on different parts of their bodies.

3. At the very outset, it has been argued by learned counsel for the petitioner that the petitioner has been falsely roped in this case

against the actual facts and circumstances. Contends that the petitioner is behind the bars for the last more than 20 months and the conclusion of trial is not in sight in near future, therefore, he is entitled for the grant of post-arrest bail on statutory ground. Contends that the delay in conclusion of the trial is not attributable to the petitioner rather the same occasioned due to the prosecution. Lastly contends that the learned High Court while declining bail to the petitioner has not followed the guidelines issued by this Court for the safe administration of criminal justice, therefore, the same may be set at naught and the petitioner may be released on bail.

4. We have heard learned counsel for the petitioner at some length and have perused the available record.

There is no denial to this fact that the petitioner filed three successive post-arrest bail petitions before the learned High Court. Two of them were on statutory ground and all were dismissed. The petitioner was arrested on 30.07.2021 and the charge was framed against him on 03.12.2021. In the impugned order, the learned High Court has very elaborately discussed the conduct of the petitioner-accused side, which candidly shows that the accused side is lingering on the matter deliberately and is not cooperating to conclude the trial expeditiously. The learned High Court referred four instances when although the prosecution witnesses were present before the learned Trial Court but their evidence could not be recorded because of the adjournment sought by the petitioner. In this backdrop, the learned High Court rightly observed that the petitioner is intentionally delaying the matter just to create a ground for bail in his favour. As many as eight persons from the complainant party sustained firearm injuries on different parts of their bodies. The perusal of record reflects that the complainant party is producing the witnesses before the learned Trial Court on each and every date but the petitioner is avoiding getting their evidence recorded. While deciding bail petition on statutory grounds, the Courts must examine the available material to first form an opinion that such delay is not occasioned due to any act of the accused himself or any other person acting on his behalf. If that be so, the

bail even on ground of statutory delay can be declined. The learned High Court has correctly appreciated the material aspects of the case and the conclusions drawn are in line with the guidelines enunciated by this Court on the subject. Learned counsel for the petitioner has not been able to point out any legal or factual error in the impugned order, which could be made basis to take a different view from that of the learned High Court.

5. For what has been discussed above, we do not find any merit in this petition, which is dismissed and leave to appeal is refused.

JUDGE

JUDGE

Islamabad, the  
18<sup>th</sup> of April, 2023  
Approved For Reporting  
**Khurram**