

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Mushir Alam
Mr. Justice Qazi Muhammad Amin Ahmed
Mr. Justice Amin-ud-Din Khan

Criminal Petition No.549 of 2020

(Against the order dated 5.6.2020 passed by the Lahore High Court Lahore in Crl. Misc. No.19465-B/2020)

Babar Nadeem

...Petitioner(s)

Versus

The State through P.G. Punjab and another

...Respondent(s)

For the Petitioner(s): Mr. Naveed Ahmed Khawaja, ASC

For the State: Mirza Abid Majeed,
Additional Prosecutor General Punjab
along with Tana Tanvir, SHO, M. Akram,
I/O.

For the Respondent(s): Nemo

Date of hearing: 21.07.2020.

ORDER

Qazi Muhammad Amin Ahmed, J.- Manzoor Ahmed, deceased, was done to death by two unknown assailants, inside his house, located within the remit of Police Station Saddar Arifwala, District Pakpattan at 9:00 p.m. on 17.2.2020; they vanished into the darkness; identified as assassins Muhammad Din, Muhammad Latif and Tanvir Hussain were subsequently arrested under section 54 on 29.2.2020; it is upon their disclosure that Babar Nadeem, petitioner along with two others was taken on board as amongst the abettors behind the scene; one of them, namely, Naveed has since been let off from the array. As the investigation progressed, the Investigating Officer recorded statements of Sher Muhammad and Muhammad Shahbaz PWs on 18.2.2020; according to them, they had seen the petitioner along with two others, shortly before the

occurrence, an information that they statedly conveyed to the complainant after the occurrence. It is through these statements that the prosecution also introduced the motive that related to a brawl between the parties 4/5 months prior to the incident.

2. Heard. Record perused.

3. Argument that in the absence of any legal evidence there was no occasion for the Courts below to deny judicial protection to the petitioner in the face of *mala fide* vividly lurking behind the intended arrest warrants serious consideration. We would refrain to comment upon the absence of abettors' name in the crime report despite their having been spotted by the witnesses, shortly before the tragedy struck a small rural neighbourhood i.e. Chak No.72-EB, nonetheless, the omission by itself brings petitioner's culpability within the purview of subsection 2 of section 497 of the Code of Criminal Procedure 1898; combined with exoneration of Naveed from the list of abettors, argued as mutually destructive with the hypothesis of conspiracy, does admit space to contemplate considerations for arrest other than being noble; a case for judicial protection stands made out. Petition is converted into appeal and allowed; ad interim bail granted vide order dated 8.7.2020 is confirmed upon furnishing a bond in the sum of Rs.500,000/- with one surety in the like amount to the satisfaction of the trial Court.

Judge

Judge

Judge

Islamabad, the
21st July, 2020
Not approved for reporting
Ghulam Raza/-