

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

PRESENT:

Mr. Justice Umar Ata Bandial

Mr. Justice Syed Mansoor Ali Shah

Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Petition No.1225 of 2021

(Against the order dated 14.10.2021 passed by the Lahore High Court Lahore in Crl. Misc. No. 51549-B/2021)

Kashif alias Wajid alias Waju

.....Petitioner(s)

Versus

The State & another

...Respondent(s)

For the Petitioner(s):

Mr. Aurangzeb Maral, ASC

For the State:

Ch. Muhammad Sarwar Sidhu,
Addl. P.G. Punjab along with Ghulam
Muhammadm DSP, M. Irfan, SI and
Nadeem, SHO

For the Complainant:

In person.

Date of Hearing

27.01.2022.

ORDER

Qazi Muhammad Amin Ahmed, J.- Mohsin Ali Shah and Aftab son of Ghulam Rasool were surprised by two unknown assassins at their *Dera*, 8:00 p.m. on 31.8.2015, located within the precincts of Police Station Ferozwala District Gujranwala; incident was reported by Ghazanfar Ali Gillani, a nephew of Mohsin Ali Shah who gave assailants' description, without citing motive for the crime.

Mohsin Ali Shah deceased was survived by his daughters; of them, Sidra Batool came forward to record a supplementary statement on 7.12.2015 wherein she nominated the petitioner and Muhammad Farooq as suspects for the crime; she claimed to have herself witnessed the occurrence. Alleging complainant's collaboration with Iqbal Butter co-accused, since acquitted, who according to her, had engaged the accused, hired assassins, to murder the deceased in the backdrop of election rivalry.

Pursuant to supplementary statement dated 7.12.2015, the police proceeded to arrest the petitioner and effected some recoveries on his disclosure; it also arrayed Iqbal Butter as architect behind the crime, however, it is admitted at the bar that he has been acquitted from the charge. Blamed as hired assassins, albeit with no past reflecting upon their alleged status, statedly employed with afore-named Iqbal Butter as his security guards, the Investigating Officer recovered their uniforms in a bid to connect them with the crime.

2. Heard. Record perused.

3. Prosecution case initially set up in the crime report by Ghazanfar Ali Gillani, no other than deceased's nephew, is diametrically different from the version advanced by Sidra Batool PW, a real daughter undoubtedly most devastated by the occurrence, nonetheless, her plea that she being a *Parda Nashin* lady unsuspectingly stayed away from the investigative process as well as evidentiary value of her supplementary statement to take the petitioner on board in wake thereof are the issues that squarely bring petitioner's case, for the present, within the purview of subsection 2 of section 497 of the Code of Criminal Procedure, 1898 and, thus, would be best settled after recording of evidence during the trial, already in progress, in view whereof, it would be unconscionable to keep the petitioner in custody, particularly when it is not serving any useful purpose, relative to investigation. Petition is converted into appeal and allowed; the appellant/petitioner shall be released on bail upon furnishing of 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
27th January, 2022
Azma/-