

**2024 S C M R 43**

**[Supreme Court of Pakistan]**

**Present: Sardar Tariq Masood, Yahya Afridi and Ayesha A. Malik, JJ**

**FAHEEM ULLAH---Petitioner**

**Versus**

**The STATE through P.G. Punjab and another---Respondents**

Criminal Petitions Nos. 1174 and 1202 of 2023, decided on 20th November, 2023.

(On appeal against the judgment dated 25.09.2023 passed by the Peshawar High Court, Peshawar in Criminal Misc. (B.A.) Nos. 2879-P and 2933-P of 2023)

## **ORDER**

### **SARDAR TARIQ MASOOD, J.---**

Criminal Petition No.1174/2023 Post-arrest bail was declined to the petitioner by the Peshawar High Court in case FIR No.691/2022 dated 21.07.2022, registered at Police Station Badber, District Peshawar, under sections 452, 427, 354 and 34 of the Pakistan Penal Code (P.P.C.) through the impugned order, hence this petition for leave to appeal.

2. After hearing learned counsel for the petitioner, we observed that all the offences mentioned in the FIR are out of prohibition contained in section 497 of the Code of Criminal Procedure (Cr.P.C.). According to learned counsel the petitioner was involved in this case for the reason that the wife of his cousin lodged case FIR No. 690/2022 dated 21.07.2022 in which one Saddique Ullah lost his life, against the close relative of Mst. Nusrat complainant of the present FIR. It is also contended by the learned counsel that mother of the petitioner is an eye-witness of the said murder case. So there is some enmity/reason for implication of the petitioner in the case in which the offences are out of prohibitory clause. The petitioner is behind the bars since 08.06.2023 and trial has not been concluded.

3. In view of above, this petition is converted into an appeal and allowed. The appellant is granted bail, subject to his furnishing bail bond of Rs.200,000/(Rupees two hundred thousand only) with one surety in the like amount to the satisfaction of the trial Court.

4. Criminal Petition No.1202/2023 Post-arrest bail was declined to the petitioner by the Peshawar High Court in case FIR No.693/2022 dated 21.07.2022, registered at Police Station Badber, District Peshawar, under sections 452, 427, 506, 148 and 149 of the Pakistan Penal Code (P.P.C.) through the impugned order, hence this petition for leave to appeal.

5. Heard the learned counsel for the petitioner and perused the record. We have observed that all the offences mentioned in the FIR are out of prohibitory clause contained in section 497 of the Code of Criminal Procedure (Cr.P.C.). The petitioner, according to learned counsel, was involved in this case for the reason that the wife of his cousin lodged case FIR No.690/2022 dated 21.07.2022 in which one Saddique Ullah lost his life, against the close relative of Hassan Taja complainant of the present FIR. It is also contended by the learned counsel that mother of the petitioner is an eye-witness of the said murder case. So there is some enmity/reason for implication of the petitioner in the case in which the above said offences which are out of prohibitory clause. The petitioner is behind the bars since 08.06.2023 and trial has not been concluded.

6. For the forgoing, instant petition is converted into an appeal and allowed. The appellant is granted bail, subject to his furnishing bail bond of Rs.200,000/(Rupees two hundred thousand only) with one surety in the like amount to the satisfaction of the trial Court.

Bail granted.