

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Present:**

MR. JUSTICE DOST MUHAMMAD KHAN  
MR. JUSTICE QAZI FAEZ ISA  
MR. JUSTICE FAISAL ARAB

**CRIMINAL PETITION NO. 1232 OF 2016**

*(Against the order dated 27.10.2016 of the  
Lahore High Court, Lahore passed in  
Criminal Misc. No.7923-B/2016).*

*Adnan Prince.*

*... Petitioner(s)*

**VERSUS**

*The State through P.G., Punjab and another.*

*... Respondent(s)*

For the Petitioner(s):

Mrs. Asma Jahangir, Sr. ASC.  
Ch. Akhtar Ali, AOR.

For Respondent No. 1/State:

Ch. Zubair Ahmed Farooq, Addl.PG., Punjab.  
Muhammad Akram, SI/IO.

For Respondent No. 2:

Mr. Ghulam Mustafa Ch., ASC.  
Mr. Ghulam Hussain, AOR (**absent**).

Date of Hearing:

01.02.2017.

**JUDGMENT**

**Dost Muhammad Khan, J:-** Issue notice to the respondents.

During the course of hearing, learned Additional Prosecutor General, Punjab accepts notice, however, he stated that he may be given time to go through the order sheets of the learned trial Court and this case may be taken up after the break time, i.e. 11:30 am.

2. The case was taken up for hearing after the break. Petitioner is seeking leave to appeal against the judgment/order dated 27.10.2016 of the learned single Judge of the Lahore High Court, Lahore, whereby the bail petition of the petitioner was dismissed despite of statutory delay in

the conclusion of the trial, which according to the record, is almost three years and three months, if counted from the date of the arrest of the accused/petitioner.

3. The earlier bail petition of the petitioner was dismissed on merits upto this Court, however, after the expiry of statutory period, provided in the proviso to Section 497 Cr.P.C. he repeated his bail petition but could not succeed. He is facing trial in case FIR No. 675 dated 09.10.2013 for crimes under section 295-A, B & C of the PPC registered at Police Station Township, District Lahore.

4. We have gone through the brief summary/list of the order sheets of the learned trial Court where delay has mainly been caused by the prosecution or the Court itself, seized of the trial and even if the adjournments sought by the accused/petitioner due to absence of his counsel or his non-availability is excluded, even then he would be entitled to the concession of bail because in that case too his total detention during the trial becomes more than two years.

5. The learned Additional Prosecutor General, Punjab assisted by the counsel for the informant/complainant contended that this Court has already dismissed a bail petition by holding that once adjournments are sought by the accused/petitioner then it is not a matter of mathematical calculation and that could be a ground to refuse bail to accused person.

6. The judgment on which reliance was placed was delivered at the time when relevant provisions of Criminal Procedure Code were not amended and Article 10-A was not part of the Constitution of Pakistan which require that each and every accused must be provided opportunity of fair trial and also the State has been put under obligation that each

and every accused must be provided opportunity of fair trial, therefore, in our considered view the said ratio laid down by this Court would not be strictly attracted.

7. It has been consistently held by this Court that if a case on such statutory delay in the conclusion of trial is made out then, ordinarily, bail should not be refused on hyper technical ground.

8. The Primary object behind this view is that in case any accused person under detention is acquitted at the end of the trial then, in no manner the wrong, caused to him due to long incarceration in prison pending trial, he cannot be compensated in any manner while on the other hand, in case, if he is convicted then, he has to be rearrested and put behind the bars to undergo his sentence and in that case no prejudice would be caused to the prosecution/complainant.

9. Of course, it is too late but we are constrained to give a wake-up call to the prosecution/State that in Criminal cases involving capital punishment, the Investigators and Prosecutors, consisting of large fleets who are being sustained and maintained at the cost of tax payers money of the poor people, shall diligently perform their statutory duties/obligations otherwise, they will be guilty of violating the mandatory statutory provisions of the Cr.PC., the Constitution and Law relating to the prosecution branch. It is a universal principle of law that to have a speedy trial is the right of every accused person, therefore, unnecessary delay in trial of such cases would amount to denial of justice.

Many years back, the State/Government with the object to put the criminal justice system into the correct channels, bifurcated the police force to preventive/detective, investigation and prosecution wings. The establishment of the same cost dearly the public exchequer because

extraordinary budget was allocated for this purpose by all the Governments of the Provinces including Federal Government, however, such costly exercise could not improve the system because supervising officers of these three wings of the police are taking least interest to streamline the working of each wing, in an efficient and effective manner and to comply with the mandatory provisions of law. Thus even today charge sheets and submission of the challans before the competent courts in criminal cases are delayed beyond the mandatory statutory period for no reason much less plausible. Even interim challans as required under the law are not submitted within the statutory period. This conduct and attitude as well as performance of investigating, prosecution and detective agencies are absolutely un-acceptable and un-condonable because on the one hand, the law is disregarded while on the other hand, with the passage of time and long delay in the submission of challans, trial in each case is delayed and some of the witnesses including star witness either vanish being killed by the opponents, meet natural death or abandon their permanent abode/place of official duties due to transfer to another place or district making it a cumbersome job for the trial court to procure their attendance. This is one of the major contributory factor in the backlog crisis/pendency of criminal cases. Such type of un-condonable delay in many cases becomes a cause of frustration both for the accused, the aggrieved complainant party and in some cases, the aggrieved party ordinarily takes the law into hands indulging in revengeful acts.

10. This has certainly resulted in unrest and element of intolerance in the society which ultimately would have negative impacts on the performance of the government as a whole.

11. Accordingly, copy of this judgment be sent to the Attorney General of Pakistan, all the Prosecutor Generals of the Provinces and Islamabad Capital Territory-ICT, Advocate Generals of the four Provinces, DIGs/Addl. IGPs who are the Incharges of the Investigation Wings, Ministry of Interior, Govt. of Pakistan and all the Chief Secretaries of the four Provinces, all the Home Secretaries of the provinces, IGP-Islamabad, Chief Commissioner-ICT with the direction to hold deliberations and consultations and after giving deep thought to the subject matter, they should collectively and individually devise a proper strategy/policy to arrest this grave menace of delay and causes thereof and to immediately redress the same within the possible minimum time so that compliance is made with the mandatory provision of law and the relevant article of the Constitution in its true letter and spirit and to make accountable each and every officer who is found responsible for such delay and to show a visible and efficient performance in all three fields, failing which the public would be justified to protest that their money is going waste without any fruitful result even after introduction of the new system.

12. Copy of the actions taken alongwith minutes of each and every action taken, in view of above guidelines be submitted periodically to the Registrar of this Court with detailed information about the cases pending investigation before the Investigating Agency, the Prosecution Branch and to explain the delay in the submission of challans to the trial court.

13. As discussed in the earlier part of this judgment, we are of the view that the long delay caused in the conclusion of the trial in this case where- after three years and three months long period only

examination-in-chief of a single witness has been recorded is a matter of concern for the Court which shall not go un-noticed.

14. The inordinate and shocking delay in the conclusion of trial in this case has made out a case for grant of bail which cannot be refused to the petitioner on any ground much less justifiable.

Accordingly, this petition is converted into appeal and is allowed, the appellant-Adnan Prince son of Parvaiz Shahid is granted bail subject to his furnishing bail bonds in the sum of Rs.300,000/- (three lac) with two reliable sureties in the like amount to the satisfaction of the trial court.

Judge

Judge

Judge

*Bench-IV*  
**Islamabad:**  
01.02.2017  
(M. Tauseef)

**'Approved for Reporting'**