

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE MUHAMMAD HASHIM KHAN KAKAR
MR. JUSTICE ISHTIAQ IBRAHIM

Crl. PLA No. 332/2025

*(Against the judgment dated 13.03.2025
passed by the Lahore High Court,
Rawalpindi Bench in Crl. Misc. No.1096-B
2025)*

Zulqarnain Haider alias Zain

...Petitioner

Versus

The State and another

...Respondents

For the Petitioner:

Sardar Abdul Raziq Khan, ASC
Syed Rifaqat Hussain Shah, AOR

For the Respondent:

Mr. Basharatullah, ASC

For the State:

Mr. Tariq Siddique, APG

Date of hearing:

16.04.2025

JUDGMENT

Ishtiaq Ibrahim, J.- The petitioner has approached this Court seeking post-arrest bail in FIR No. 348 dated 16.05.2023, under Section 302, 324, 337-H(2), 440, 148 & 149 PPC Police Station Kallar Syedan, District Rawalpindi, following the dismissal of his bail petition by the Hon'ble Lahore High Court, Rawalpindi Bench, Rawalpindi and the court below.

2. Briefly stated, the petitioner along with co-accused forming an unlawful assembly while being armed with deadly weapon is alleged of committing murder of Yasir Ali (deceased) and causing injury to Qamar Zaman (PW) as recorded in FIR No. 348 of 2023 dated 16.05.2023 at 2:45PM. The occurrence is stated to have taken place over a land dispute being the motive.

3. The matter has been thoroughly heard and the record has been perused.

4. We noticed from record that another report of the same occurrence has been registered by Hassan Akhtar (accused of FIR No. 348 ibid), also including the same place, time and date of occurrence, while involving the same parties inter se. However, this second report was registered on 21.05.2023, with a delay of four days. From one side deceased, Yasir Malik has lost his life and Qamar Zaman sustained injuries while in the second report two persons namely Hassan Akhtar and Waqar Khalid Qureshi sustained injuries.

5. When both versions are placed in juxtaposition, it becomes apparent that the allegations in both complaints are qua the same incident, as they share a common nexus in terms of date, time, location, motive, and parties involved. The only apparent distinction lies in the sequence of reporting. This factual overlap, prima facie, reflects that the two versions are antithetical claims arising out of one and the same occurrence thus, portraying the current scenario as cross version and we are not in agreement with the Hon'ble Lahore Court on not allowing bail to the petitioner on the basis of cross-version. The reason being that in cases involving cross-versions of the same occurrence, it is a well-settled principle of criminal jurisprudence that the prime consideration before the Court is to ascertain which party was the aggressor and which party was aggressed upon. The nature, seat, and number of injuries sustained by each side may undoubtedly be relevant; however, such factors are merely indicative and do not, by themselves, carry an overriding or conclusive effect. The mere extent of injuries caused to one party cannot serve as the sole basis for drawing an adverse inference against the other, especially where both versions emanate from the same transaction and each party attributes aggression to the other.

6. In cases of counter versions arising from the same incident, one given by the complainant in the F.I.R., and the other given by the opposite party, bail in appropriate cases is granted as a rule on the grounds of further inquiry for the reason that the question as to which version is correct is to be decided after the recording of pro and contra evidence during the trial, and also to ascertain which party was the aggressor and which party was aggressed upon. The refusal of bail in such cases is an exception. Reliance is placed upon Fazal Muhammad v. Ali Ahmed 1976 SCMR 391; Shafiqan v. Hashim Ali 1972 SCMR 682; Khalid Mehmood v. Muhammad Kashif Rasool 2013 SCMR 1415; and Khizar Hayat v. The State 2024 SCMR 1605.

7. Additionally, the petitioner is in custody for the last 23 months, and despite the lapse of such a considerable period, there appears to be no substantial progress in the trial pending before the learned trial court. This prolonged incarceration, without meaningful advancement in the trial, raises a serious concern regarding the petitioner's right to a fair and expeditious trial.

8. In view of the overall circumstances of the given case, we are unable to discern any compelling reason that would justify the continued denial of bail to the petitioner at this stage. This petition, therefore, is converted into an appeal and is allowed. The petitioner is granted post arrest bail on furnishing surety bond in sum of Rs. 5,00,000/-with two separate sureties in like amount to satisfaction of the concerned Trial Court.

Announced in Open Court at Islamabad on, 22nd April, 2025

Approved for reporting.

M. Siraj Afridi PS / Tayyaba Munir LC