

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

**PRESENT:**

MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI  
MR. JUSTICE JAMAL KHAN MANDOKHAIL  
MR. JUSTICE ATHAR MINALLAH

**CRIMINAL PETITION NO. 1557 OF 2022**

(On appeal against the order dated 28.11.2022 passed by the High Court of Sindh, Circuit Court Hyderabad in CrI. Bail Application No. S-1126/2022)

Gul Muhammad

... Petitioner

**Versus**

The State

... Respondent

For the Petitioner: Mian Taj Muhammad Keerio, ASC  
(Through video link from Karachi)

For the State: Mr. Hussain Bux Baloch, Addl. P.G.

For the Complainant: In person

Date of Hearing: 09.02.2023

**ORDER**

**SAYYED MAZAHAR ALI AKBAR NAQVI, J.-** Through the instant petition under Article 185(3) of the Constitution of Islamic Republic of Pakistan, 1973, the petitioner has assailed the order dated 28.11.2022 passed by the learned Single Judge of the learned High Court of Sindh, Circuit Court Hyderabad, with a prayer to grant post-arrest bail in case registered vide FIR No. 26/2022 dated 28.07.2022 under Sections 302 / 324 / 337-A(i) / 337-F(i) / 337-H(ii) / 504 / 506 / 114 / 147 / 148 / 149 PPC at Police Station Nabi Sir Road, District Umerkot, in the interest of safe administration of criminal justice.

2. Briefly stated the allegation against the petitioner is that he along with co-accused while armed with firearm launched an attack on the complainant party. With the intention to kill, the petitioner made straight fire from his pistol upon the complainant, which hit on his ear and shoulder. The other co-accused made fires on Ghulam Abbas and Gul Bahar, nephew and son of the complainant, due to which the said Ghulam Abbas died whereas the son of the complainant sustained injury on his leg.

3. At the very outset, it has been argued by learned counsel for the petitioner that the petitioner has been falsely roped in this case against the actual facts and circumstances. Contends that the crime report was lodged after an inordinate delay of two days for which no plausible explanation has been given. Contends that in-fact the complainant party was aggressor and had caused injury on left arm of the petitioner due to which his arm was amputated and a counter FIR has been registered against the complainant party. Contends that it is a case of two version squarely falling within the ambit of Section 497(2) Cr.P.C. Contends that the learned High Court while declining bail to the petitioner has not followed the guidelines issued by this Court for the safe administration of criminal justice, therefore, the same may be set at naught and the petitioner may be released on bail.

4. On the other hand, learned Law Officer opposed the petition by contending that although the crime report was registered with an inordinate delay of two days but there was no *mala fide* on the part of the complainant. Contends that the petitioner has been specifically nominated in the crime report with a specific role of firing at the complainant, therefore, he does not deserve any leniency from this Court.

5. We have heard learned counsel for the parties at some length and have perused the available record with their able assistance.

As per the contents of the crime report, the allegation against the petitioner is that he while armed with pistol .30 bore launched an attack on the complainant party and made straight fire from his pistol on the complainant, which hit on his ear and shoulder. However, it is stance of the petitioner that in-fact the complainant party while armed with firearms came at his village, attacked on him and caused injury on his left arm, due to which his left arm has been amputated. The medical evidence available on record *prima facie* supports the stance of the petitioner. The petitioner has also got registered a counter FIR bearing No. 27/2022 under Sections 324/506(ii)/114/337-F(i)/337-H(ii)/504/34 PPC at Police Station Nabir Sir Road, District Umerkot against the complainant party. In the instant case, the crime report was lodged after an inordinate delay of two days for which not

even a single word has been put forward by the complainant. The delayed registration of FIR *prima facie* shows deliberations and consultation on the part of the complainant. According to Medico Legal Report of the injured PW Usman, the injuries on his person have been declared as *ghayr jaifah mutalahimah* and *shajjah-i-khafifah* falling within the ambit of Sections 337-F(iii) and 337-A(i) PPC for which the maximum punishment provided under the statute is three and two years respectively. However, we do not want to comment on this aspect of the matter, lest it may prejudice the case of either of the party before the Trial Court. It is the Trial Court who after recording of evidence would decide about the guilt or otherwise of the petitioner and as to whether Section 324 PPC is applicable or not. The petitioner is behind the bars for the last more than five months. This court has time and again held that liberty of a person is a precious right, which cannot be taken away unless there are exceptional grounds to do so. Merely on the basis of bald allegations, the liberty of a person cannot be curtailed. In these circumstances, the petitioner has made out a case for bail as his case squarely falls within the purview of Section 497(2) Cr.P.C. entitling for further inquiry into his guilt.

6. For what has been discussed above, we convert this petition into appeal, allow it and set aside the impugned order. The petitioner is admitted to bail subject to his furnishing bail bonds in the sum of Rs.200,000/- with one surety in the like amount to the satisfaction of learned Trial Court.

JUDGE

JUDGE

JUDGE

Islamabad, the  
9<sup>th</sup> of February, 2023  
Approved For Reporting  
Khurram