

SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Syed Mansoor Ali Shah
Mr. Justice Amin-ud-Din Khan

Crl.P. No. 127-Q/2021

(Against the order dated 09.10.2021 passed by the High Court of Balochistan,
Quetta in Crl.Bail Application No.633/2021)

Salman Khan

.....Petitioner(s)

Versus

The State.

.....Respondent(s)

For the petitioner(s): Mr. Kamran Murtaza, Sr. ASC.

For the state: Qazi Mushtaq Ahmed, Addl. P.G. Balochistan

For the complainant: Mr. Amir Muhammad Lehri, ASC.

Date of hearing: 13.01.2022

ORDER

Syed Mansoor Ali Shah, J.- The petitioner seeks leave to appeal against the order dated 09.10.2021 passed by the High Court of Balochistan, whereby post-arrest bail has been denied to him in case FIR No.68/2021 registered at P.S. Sariab, for offences punishable under Sections 302, 324 and 34, PPC.

2. The allegation in the crime report against the petitioner, a member of the Eagle Squad (a law enforcement agency), briefly stated is that four members of the Eagle Squad, including the petitioner, signaled the car of the complainant to stop but he continued to drive on, whereupon the petitioner fired at the car, which ended up in causing injuries to the complainant and death of his cousin, Faizan, who was also seated in the car.

3. We have heard the parties and examined the record. The petitioner and others members of the Eagle Squad were on their routine duty of maintaining law and order in the city, at the time of incident. There is nothing on record to show that there was a background of any enmity between the parties, or the incident was the result of some provocation, or the petitioner fired at the car that had tinted glasses,

with the intention to cause death of the complainant and his cousin. From the contents of the crime report, it appears that an offence of *qatl-bis-sabab* punishable under Section 322 PPC is made out other than *qatl-i-khata* punishable under section 319, PPC. However, *qatl-i-amd* under section 302 does not appear to be made out in the present facts and circumstances of the case. Section 322, PPC falls outside the prohibitory clause of Section 497(1), CrPC¹ while section 319, PPC is bailable. That being so, the detention of the petitioner pending trial can only be justified if this case falls within the scope of any of the exceptions stated in the cases of *Tariq Bashir*², *Muhammad Tanveer*³ and *Zafar Iqbal*.⁴ There is, however, nothing on record that may attract any of the said exceptions and justify denial of post arrest bail to the petitioner.

4. The High Court has not exercised its discretion judiciously in denying the relief of post arrest bail to the petitioner. This petition is, therefore, converted into appeal and allowed: the impugned order is set aside and the bail application of the petitioner is accepted. The petitioner is admitted to bail subject to his furnishing the bail bond in the sum of Rs.100,000/- with one surety each in the like amount to the satisfaction of the trial Court.

5. Needless to mention that the observations made in this order are of tentative nature which shall not in any manner influence the trial court, and that this concession of bail may be cancelled, under Section 497(5) CrPC, if the petitioner misuses it in any manner, including causing delay in the expeditious conclusion of the trial.

Judge

Islamabad,
13th January, 2022.
Approved for reporting
Iqbal

Judge

¹ Manzoor v. State 1992 P.Cr.L.J 1374; Muhammad Nadeem v. State 1998 MLD 1537; Yousuf Khan v. State 2000 P.Cr.L.J 203; and, Aamir v. State 2006 P.Cr.L.J 1236).

² Tariq Bashir v. State PLD 1995 SC 34 (2-MB).

³ Muhammad Tanveer v. State PLD 2017 SC 733 (3-MB).

⁴ Zafar Iqbal v. Muhammad Anwar 2009 SCMR 1488 (4-MB).