

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE IJAZ UL AHSAN

MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

CRIMINAL PETITION NO. 656-L OF 2021

(On appeal against the order dated 28.04.2021 passed by the Lahore High Court, Lahore in Criminal Miscellaneous No. 21377-B/2021)

Shahid Abbas

... Petitioner

VERSUS

The State etc

... Respondents

For the Petitioner: Mr. Hamayun Rashid Ch, ASC a/w petitioner

For the State: Mr. Muhammad Jaffer, Addl. P.G.
Mr. Ejaz Ahmed, SI

Date of Hearing: 12.10.2021

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 28.04.2021 passed by the learned Single Judge of the Lahore High Court, Lahore, with a prayer to grant pre-arrest bail in case registered vide FIR No. 33 dated 11.01.2021 under Sections 452/337-A(ii)/337-A(i)/337-F(i)/448/511/148/149 PPC at Police Station Bhawana, District Chiniot 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 firearms and 'sotas' trespassed into the house of the complainant while causing injuries to him. Petitioner's pre-arrest bail was declined by the learned Trial Court vide order dated 24.03.2021 and it also met the same fate before the learned High Court vide impugned order dated 28.04.2021. Hence, this petition seeking leave to appeal.

3. Learned counsel for petitioner contends that the petitioner has been falsely roped in this case against the actual facts

and circumstances due to connivance of the complainant with local police. Further contends that the FIR of the alleged occurrence was registered after a delay of 23 days, which shows deliberation and consultation on the part of the complainant. Lastly contends that the medico legal report was obtained prior to the occurrence, which speaks volume on the conduct of the complainant.

4. *On the other hand, learned Law Officer has defended the impugned order declining bail to the petitioner. He contends that the petitioner has been specifically nominated in the crime report with a specific allegation of causing 'sota' blow on the left side of head of the complainant, therefore, he does not deserve any leniency by this Court.*

5. *We have heard learned counsel for the parties at some length and have perused the record.*

There is no denial to the fact that the FIR of the occurrence was got recorded after an inordinate delay of about 23 days for which no plausible explanation has been given. It was the stance of the complainant that the alleged occurrence took place on 19.12.2020 at about 9/10 PM in night but surprisingly, the medico legal report had been obtained prior to the occurrence and the same shows that the injured was examined at 2.10 PM on 19.12.2020 i.e. about 7/8 hours prior to the occurrence. As per the contents of the crime report, the role attributed to the petitioner is that he firstly caught hold of the complainant and thereafter, he gave a 'sota' blow on the left side of his head. However, we have found that the injured was examined by a medical board and so far as the injury on his head is concerned, the report shows that the possibility of fabrication cannot be ruled out. It is an admitted position that civil litigation is pending between the parties. Keeping in view the facts and circumstances of this case, the possibility of false implication of the petitioner cannot be ruled out. In these circumstances, it is the Trial Court who after recording of evidence would decide about the guilt or otherwise of the petitioner. Prima facie there are sufficient grounds to take into consideration that the case of the petitioner is fully covered by Section 497(2) Cr.P.C. calling for further inquiry to his guilt.

6. *For what has been discussed above, we convert this petition into appeal, allow it, set aside the impugned order dated 28.04.2021 passed by the learned Single Judge of the High Court and confirm the ad interim pre-arrest bail granted to the petitioner vide this Court's order dated 23.07.2021.*

JUDGE

JUDGE

Lahore, the
12th of October, 2021
Approved For Reporting
Khurram