

IN THE SUPREME COURT OF PAKISTAN  
(APPELLATE JURISDICTION)

**PRESENT:**

MR. JUSTICE IJAZ UL AHSAN

MR. JUSTICE MUNIB AKHTAR

MR. JUSTICE SAYYED MAZAHAR ALI AKBAR NAQVI

**CRIMINAL PETITION NO. 352-L OF 2022**

(On appeal against the order dated 14.02.2022  
passed by the Lahore High Court, Lahore in Crl.  
Misc. No. 8593-B/2022)

Muhammad Umar Waqas Barkat Ali

... Petitioner

**Versus**

The State and another

... Respondents

For the Petitioner:

Mr. Khalid Masood Sandhu, ASC a/w petitioner

For the State:

Mirza Muhammad Usman, DPG

Mr. Hassan Farooq, DSP

Mr. Abdul Razzaq, ASI

Date of Hearing:

23.11.2022

**JUDGMENT**

**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 consolidated order dated 14.02.2022 (*separate order dated 21.02.2022*) passed by the learned Single Judge of the learned Lahore High Court, Lahore, with a prayer to grant pre-arrest bail in a cross-version recorded under Sections 337-A(i)/337-A(ii)/337-F(v)/354/148/149 PPC in case registered vide FIR No. 990/2021 dated 20.11.2021 under Sections 337-A(iii)/337-F(i)/337-F(v)/337-L(ii)/148/149 PPC at Police Station Mustafaabad, District Kasur, in the interest of safe administration of criminal justice.

2. Briefly stated the allegation against the petitioner is that on 17.11.2021 at about 12:15 pm, he along with co-accused while armed with firearms launched an attack on the complainant party and inflicted a rifle butt blow on the forehead of the complainant of the cross-version namely Muhammad Aslam. Co-accused Tahir Mehmood was also ascribed an

injury at the left arm below elbow of the complainant, which was allegedly caused by a butt blow of pistol. However, during investigation, the same was also attributed to the present petitioner. The motive behind the occurrence was that allegedly the petitioner wanted to take forcible possession of the land belonging to the complainant.

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 father of the petitioner namely Barkat Ali had lodged the FIR against the complainant of the cross-version and as a counterblast the instant cross-version was recorded. Contends that two brothers of the petitioner had also received serious injuries during the occurrence. Contends that the cross-version was recorded with an inordinate delay of six days, which speaks volumes against its authenticity. Contends that it is a case of two versions and it is yet to be determined, which party was aggressor. Contends that a false and frivolous story has been concocted in the cross-version just to harass, humiliate and blackmail the petitioner's party. Lastly contends that the case of the petitioner requires further inquiry within the meaning of Section 497(2) Cr.P.C., therefore, he may be granted bail.

4. On the other hand, learned Law Officer has defended the impugned order. It has been contended that the petitioner is specifically nominated in the cross-version for causing injuries on the person 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 available record with their able assistance.

There is no denial to this fact that it was the father of the petitioner Barkat Ali, who had firstly lodged FIR No. 990/2021 under Sections 337-A(iii)/337-F(i)/337-F(v)/337-L(ii)/148/149 PPC against the complainant of the cross-version namely Muhammad Aslam and his co-accused wherein he alleged that the said Muhammad Aslam and co-

accused have severely beaten his two sons Rana Amir and Rana Nasir and caused several injuries on their bodies. The medico legal certificates available on record *prima facie* support the accusation. It was after six days of the incident that Muhammad Aslam lodged the cross-version wherein he nominated the present petitioner. It is the stance of the petitioner that in-fact the complainant party was the aggressor and they have just exercised their right of self-defence. In the cross-version, the complainant had ascribed the injury on his left arm below elbow to the co-accused Tahir Mehmood. However, during investigation, the stance of the complainant was found to be not true. Although, the said injury was attributed to the present petitioner but nonetheless, it raises serious question about the veracity of the complainant's allegations. The opinion of the Investigating Officer regarding the overt act of the petitioner has to be evaluated after recording of evidence as an abundant caution. In this view of the matter, the possibility of false implication just to pressurize the petitioner's side to gain ulterior motives cannot be ruled out. Otherwise, it has been held by this Court in various judgments that merits of the case can be touched upon while adjudicating extraordinary relief of pre-arrest bail. Reliance is placed on Miran Bux Vs. The State (PLD 1989 SC 347), Sajid Hussain @ Joji Vs. The State (PLD 2021 SC 898), Javed Iqbal Vs. The State (PLD 2022 SCMR 1424) & Muhammad Ijaz Vs. The State (2022 SCMR 1271). In these circumstances, it is the Trial Court who after recording of evidence would decide about the guilt or otherwise of the petitioner and until then he cannot be put behind the bars for an indefinite period. It is settled law that liberty of a person is a precious right, which has been guaranteed under the Constitution of Islamic Republic of Pakistan, 1973, and the same cannot be taken away merely on bald and vague allegations. It is a case of two versions and it is established principle of law that where there is a case of two versions narrated before the Court, it squarely falls within the ambit of Section 497(2) Cr.P.C.

6. For what has been discussed above, we convert this petition into appeal, allow it, set aside the impugned order dated 14.02.2022 to

the extent of the petitioner and confirm the *ad* interim pre-arrest bail granted to the petitioner by this Court vide order dated 08.11.2022. The above are the detailed reasons of our short order of even date.

JUDGE

JUDGE

JUDGE

Islamabad, the  
23<sup>rd</sup> of November, 2022  
Approved For Reporting  
Khurram