

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.**

Before:

Mr. Justice Rana Muhammad Shamim, Chief Judge.

Mr. Justice Javed Iqbal, Judge.

Cr. Appeal No. 01/2017

in

Cr.PLA. No. 39/2016.

Naeem-ud-Din

Petitioner.

Versus

The State

Respondent.

PRESENT:-

1. Mr. Umar Farooq Advocate alongwith Mr. Rehmat Ali Advocate-on-Record for the petitioner.
2. The Advocate General Gilgit-Baltistan on behalf of the respondent.

DATE OF HEARING: - 01.03.2017.

ORDER.

This petition for grant of bail has arisen out of the impugned order dated 24.11.2016 passed the learned Chief Court Gilgit-Baltistan in Criminal Misc. No. 169/2016 wherein the bail to the petitioner was declined whereas bail was granted to the co-accused namely Saqib-ud-Din son of Firaus Khan r/o Sonikot Airport Muhallah Gilgit. The petitioner being aggrieved filed this petition for leave to appeal.

2. The learned Counsel for the petitioner submits that the petitioner alongwith the main accused were booked for the offences under Section 324, 337-A/34 PPC vide FIR No. 56/2016 dated 19.11.2016 registered at Police Station Airport Gilgit on the complaint of one Shams Khan son of Jumma Khan r/o Sonikot Gilgit. He also submits that the petitioner alongwith the main

accused applied for bail in the Court of learned Sessions Judge Gilgit which was declined vide order dated 16.11.2016. The petitioner being aggrieved by and dissatisfied with filed Criminal Misc. No. 169/2016 before the learned Chief Court Gilgit-Baltistan. Upon hearing the learned Chief Court granted bail to the co-accused Saqib-ud-Din whereas bail to the present petitioner was refused. He further submits that as per the contents of the FIR the role of the petitioner and the co-accused who was granted bail has been attributed almost the same role as of the petitioner. Admittedly, there was a civil dispute between the petitioner and the complainant pending adjudication in Civil Court. The allegations of opening fire against the petitioner are false and fabricated. There are serious doubts in the version of the complainant that the accused came to the disputed field at 03:30 pm and quarrel took place among the parties and the FIR has been lodged at 03:35 pm. As per the learned counsel for the petitioner Section 324 does not attract in the present case as no fire was opened at the complainant who sustained no injuries thereto. The learned Chief Court has rightly held that the case of the prosecution is of further inquiry, however, the petitioner was not given such benefit. He also submits that there is no independent eye witness of the occurrence except one Sajjad Ali who is son of the complainant. He finally submits that the learned Chief Court fell in error while declining bail to the extent of the petitioner vide impugned order dated 24.11.2016, hence, the same is not tenable.

3. The learned Advocate General is present in the Court and waives the notice. He contends that it was a day light occurrence and the accused is directly charged in the FIR giving him a specific role of his participation in commission of the crime. He further contends that a 30 bore pistol has been recovered from the petitioner on his pointation which prima facie connects the petitioner with the offence under Section 324 PPC which falls within prohibitory clause of Section 497 Cr.PC, hence, the bail of the petitioner be dismissed.

4. We have heard the learned counsels for the respective parties at length, perused the record of the case file and gone through the impugned order dated 24.11.2016 passed by the learned Chief Court Gilgit-Baltistan.

5. Admittedly, civil dispute is pending among the complainant and the petitioner etc. in the Court of Law. The role assigned to the petitioner who has not been granted bail is almost similar as of the co-accused Saqib-ud-Din who has been granted bail by the learned Chief Court. In our considered view the case of the petitioner is also one of the further inquiry. Consequently, he is also entitled to bail on the principle of consistency. The petition is converted into an appeal and bail to the petitioner is granted subject to furnish surety amounting of Rs. 5, 00,000/- (rupees Five Lac only) to the satisfaction of the learned Trial Court.

6. The Appeal is allowed in above terms.

Chief Judge.

Judge.