

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

Before:-

**Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.
Mr. Justice Javed Iqbal, Judge.**

Cr. Appeal No. 01/2018

In

Cr. PLA No. 02/ 2018.

The State

Petitioner.

Versus

Ashfaq Hussain & another

Respondents.

PRESENT:-

1. The Advocate General Gilgit-Baltistan for the petitioner.
2. Nemo for the respondents.
3. Both the respondents are present in person.

ORDER DATED: - 02.04.2018.

JUDGMENT

Mr. Justice Rana Muhammad Shamim, CJ..... This Criminal Petition for cancellation of bail has arisen out of the impugned order dated 07.12.2017 in Cr. Misc. No. 203/2017 passed by the learned Chief Court whereby the said Cr. Miscellaneous Application filed by the respondents was allowed. The respondents were granted bail subject to furnish bail bonds in the sum of Rs. 10,00, 000/- (Rupees ten lac only) with two sureties each in the like amount to the satisfaction of Trial Court, hence, this petition for leave to appeal. This court vide order dated 27.01.2018 issued notices to the respondents and the case is heard today.

2. Briefly, the facts of the case are that an FIR No. 62/2017 under Section 302/264-A, 365/34 PPC was registered at Police Station "Basin" District Gilgit against the respondents on the written application of one Muzamil Hussain son of Musa Khan. The complainant did not nominate anyone in the said FIR rather stated that his brother is missing since 22.07.2017. The search of the brother of the complainant was carried out and the dead body of deceased was recovered from Sharote Dass on 23.07.2017. The dead body exposed that the death was caused due to arm fire injuries and violence. The local police started investigation of the case and arrested some other suspects, who were later on released due to insufficient evidence. The present respondents were arrested and during investigation they were found involved in commission of the offence. The respondents applied post arrest bail in the Court of learned Additional Sessions Judge Gilgit which upon hearing was refused vide order dated 24.11.2017. The respondents being aggrieved by and dissatisfied with filed Cr. Misc. No. 203/2017 before the learned Chief Court which upon hearing was allowed.

3. The learned Advocate General submits that there are sufficient materials and reasonable grounds on record to believe that the respondents were involved in the commission of the alleged offence. He also submits that although the provisions of Section 497 Cr. PC are not punitive in nature yet in case, the prosecution has sufficient materials against the respondents, the bail is not to be granted in a murder case. Per learned Advocate General,

sufficient material was available on record which prime facie connects the respondents with the commission of the offence with an active connivance of the main accused Nabi Shah. The grant of bail at this stage was not warranted as offence of murder was committed in a pre-planned manner. Per learned Advocate General, the learned Chief Court fell in error while granting bail to the respondents on the ground of further inquiry which is not tenable in law. He submits that the bail granted to the respondents by the learned Chief Court may graciously be set aside.

4. We have heard the learned Advocate General at length, perused the material on record and gone through the impugned order dated 07.12.2017 in Cr. Misc. No. 203/2017 passed by the learned Chief Court. Admittedly, the murder was a blind murder and no one was nominated in the FIR. The police arrested some suspects who were later on released under Section 169 Cr. PC. The details of the occurrence were unearthed by Nabi Shah who disclosed that he alongwith respondents/co-accused committed the murder of deceased. Police on his tilt of arrested the remaining co-accused. As per prosecution record separate FIR under Section 13 AO have been registered against accused Nabi Shah for keeping in his possession arm without a valid license. No recovery has been effected from the present respondents. In our consider view, the learned Chief Court has rightly granted the bail to the respondents and the same is well reasoned and well founded. The learned

Advocate General also could not point out any illegality and infirmity in the impugned order passed by the learned Chief Court.

5. In view of the above discussions, we convert this petition into an appeal and the same is dismissed. Consequently, the impugned order dated 07.12.2017 in Cr. Misc. No. 203/2017 passed by the learned Chief Court passed by the learned Chief Court is maintained.

6. The appeal is dismissed in above terms.

Chief Judge.

Judge.