

**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. 14/2017

In

Cr. PLA No. 33/2017.

Ayesha Subhani daughter of Syed Zahid Hussain r/o 132-Eden
Canal Villas, Lahore **Petitioner.**

Versus

Syed Junaid Arshad & others **Respondents.**

PRESENT:-

1. Raja Shafqat Abbasi Advocate for the petitioner.
2. Mr. Ali Nazar Khan Advocate-on-Record for the petitioner.
3. The Deputy Attorney General for Pakistan at Gilgit.
4. Syed Dildar Hussain, Assistant Director (Legal), Anti Corruption Circle, FIA Gilgit.

DATE OF HEARING: - 12.08.2017.

ORDER.

The notices were issued and served upon the respondent No. 01 Syed Junaid Arshad, AIG Crime Branch Gilgit through the office of the Inspector General Police (IGP) Gilgit-Baltistan and to Mr. Ashir Aroon, Investigation Officer (I.O) through the local office of FIA. The office of the Inspector General Police (IGP) Gilgit-Baltistan informs that the order of this court has been conveyed to respondent Syed Junaid Arshad, AIG Crime Branch Gilgit on his WhatsApp No.03458882728 at 06:00 PM and also informed him telephonically at 09:38 PM on 11.08.2017. In spite of the notice, he

has opted not to appear today. The notice was also served upon to the Investigation Officer (I.O) Mr. Ashir Aroon on 11.08.2017 who has also not opted to appear today. The reason shown by him for not attending this court today is not acceptable rather contemptuous in nature. The reasons explained by Assistant Director (Legal) at Gilgit for his not appearance are not acceptable.

2. The learned counsel for the petitioner submits that the respondent/accused Syed Junaid Arshad, is a high ranked police officer and his all colleagues are serving in Cyber Crime Circle Wing FIA. The FIA inspite of registration of case on 09.06.2017 have not arrested him till 05.07.2017 being cognizable offence rather they facilitated him to get ad-interim bail and now providing opportunity enabling him to get the FIR cancelled. Per learned counsel the respondent/accused has not joined the investigation. The poor victim lady (complainant) was kept in dark regarding granting the ad-interim bail to the accused/respondent AIG Syed Junaid Arshad. Further, Syed Diladar Hussain, Assistant Director (Legal) Anti-Corruption Circle, FIA Gilgit has no knowledge about his joining of investigation at Lahore or any progress of the case. The learned counsel for the petitioner further submits that the extraordinary concession of ad-interim Transit bail for "Five Weeks" given by learned Chief Court is unprecedented and not tenable in law. Per learned counsel there is no provision in law to grant ad-interim transit bail. He submits that the "transit remand" and bail can be granted after the arrest of the accused as provided under

Section 86 Cr. PC in order to remove/surrender the accused from one province to the competent court of law of another province. The Protected pre-arrest bail can also be granted under Section 498 Cr. P.C enabling the petitioner to surrender in the competent court of law in other province. The respondent AIG Syed Junaid Arshad has neither prayed for Pre-arrest or Protected bail nor the learned Chief Court at Gilgit has converted his petition into a Protective or Pre-arrest bail. He prayed that impugned order dated 05.07.2017 in Criminal Misc. No. 91/2017 passed by learned Chief Court is not sustainable and liable to be set aside.

3. Neither learned Deputy Attorney General for Pakistan, Gilgit nor the Assistant Director (Legal) Crime Wing FIA, Gilgit have controverted the contentions raised by the learned counsel for the petitioner.

4. We have heard the learned counsel for the petitioner, learned Assistant Director (Legal) FIA, the learned Deputy Attorney General for Pakistan at Gilgit, perused the record of the case file and gone through the impugned order date 05.07.2017 in Criminal Misc. No. 91/2017 passed by learned Chief Court, Gilgit. In view of the above discussions, we convert this petition into an appeal and the same is allowed. The ad-interim transit bail granted to the respondent/accused Syed Junaid Arshad, AIG Crime Branch Gilgit is cancelled. Consequent thereto, the impugned order dated 05.07.2017 in Criminal Misc. No. 91/2017 passed by learned Chief Court, Gilgit is set aside.

5. We want to issue contempt notice to Mr. Ashir Aroon, Investigation Officer (I.O) FIA, Lahore. At this stage Syed Diladar Hussain, Assistant Director (Legal) Anti-Corruption Circle, FIA Gilgit, requested and submits that Mr. Ashir Aroon is most responsible officer and can not think to disobey the orders of this court. He prays that no action against him may graciously be taken in circumstances which were beyond his control. We, on his request & explanation offered by him withhold the issuance of such notice, however, Mr. Ashir Aroon is warned to be careful in future.

6. The appeal is allowed in above terms.

Chief Judge.

Judge.