

IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN  
GILGIT

**BEFORE:-**

*Mr. Justice Sardar Muhammad Shamim Khan, Chief Judge,  
(In Chamber)*

**Crl. Appeal No. 23 of 2023 in  
Crl.PLA No.45/2023**

Fida Ullah etc

Petitioners

Versus

The State

(Respondent)

**Present:-**

Mr. Burhan Wali, Advocate for petitioners.  
Mr. Mir Muhammad Prosecutor-General for State.  
Mr. Muzaffar-ud-Din, Advocate for the complainant.

**Date of hearing:**            **25.03.2024**

**JUDGMENT**

**Sardar Muhammad Shamim Khan, Chief Judge:-** Through instant Criminal appeal the petitioners namely Fida Ullah, Ata Ullah and Hafiz Ullah seek post arrest bail in a case registered against them vide FIR No.24 of 2023 dated 14.02.2023 offences under sections 302, 324, 114, 109 & 34,PPC read with section 13 Arms Ordinance at police station Jutial District Gilgit.

2. Precise allegation against the petitioners as narrated by the complainant in the FIR was that on 14.02.2023 at about 04:08 P.M, the petitioners namely Fida Ullah, Ata Ullah and Hafiz Ullah committed murder of Khosh Amadeen by causing firearm injuries on his person . It has further been alleged in the FIR that due to firing of petitioners a passerby namely Muzammil Hussain also sustained injuries on his person. Hence instant FIR was registered.

3. Learned counsel for the petitioners contended that petitioners have falsely been implicated in the instant case on the basis of malafides; that the complainant

injuries on the person of the deceased Khosh Amadeen; that Muzammil Hussain injured P.W in his statement recorded under section 161 Cr.P.C did not implicate the petitioners in the commission of instant occurrence; It has further been contended by learned counsel for the petitioners that presence of the alleged eye-witnesses at the place of occurrence is highly doubtful as both the eye-witnesses are the residents of Chilas; that there was general allegation against the petitioners that they committed the murder of deceased by causing firearm injuries. No specific injury on the person of deceased has been attributed to aforesaid petitioners; that petitioners are behind the bars since their arrest and are no more required by the police for the purpose of further investigation. Thus, it is submitted that by accepting instant appeal, the petitioners may be admitted to post arrest bail.

4. Learned Prosecutor-General has vehemently opposed the instant appeal on the grounds that petitioners are nominated in the FIR; that there was specific allegation against the petitioners that they committed the murder of Khosh Amadeen by causing firearm injuries and a passerby namely Muzammil Hussain also sustained injuries on his person due to the said firing; that during investigation the police recorded the statements of P.Ws wherein they fully implicated the petitioners in the commission of instant occurrence and they were found guilty in the investigation conducted by the police; that recovery of pistols has been effected from the possession of the petitioners; that the offences alleged against the petitioners are heinous in nature and come within the purview of prohibitory clause of section 497 Cr.P.C. Thus, it is submitted that instant Cri. Appeal is liable to be dismissed.

5. Arguments heard. Record perused.

6. It has been noticed that there was general allegation against the petitioners in the FIR that they committed the murder of deceased Khosh Amadeen by causing firearm injuries. No specific injury on the person of deceased has been attributed to aforesaid petitioners. Although it has specifically been mentioned in the FIR that the petitioners caused firearm injuries on the person of Khosh Amadeen and committed his murder and that P.Ws namely Meer Afzal and Nisar Ahmed were cited as eye-witnesses in the FIR yet perusal of record reveals that

FIR. According to statements of aforesaid P.Ws, they had not seen the petitioners while causing firearm injuries on the persons of deceased and injured P.W namely Muzammil Hussain rather as per statements of aforementioned P.Ws, after firing, they had seen the petitioners while running towards G.B Assembly. During investigation the police recorded the statement of injured P.W namely Muzammil Hussain (passerby) wherein he categorically deposed that he had not seen any person while causing firearm injuries on his person as well as on the person of the deceased. Perusal of record further reveals that the police also recorded the statement of Adeel Ahmed P.W who was allegedly present at the place of occurrence at the relevant time. The aforesaid P.W in his said statement did not disclose the name of the petitioners rather he (P.W) stated that after the occurrence, he saw two persons while running towards G.B assembly. Although the police recovered pistols from the possession of the petitioners yet such recovery would be inconsequential as no specific weapon (pistols) were mentioned by the complainant in the FIR and that no empty was secured by the police from the place of occurrence. Prima facie no cogent evidence is available on record connecting the petitioners with the commission of instant occurrence. Keeping in view the facts and circumstances of the case, the case of the petitioners comes within the ambit of further inquiry. The petitioners are behind the bars since their arrest and are no more required by the police for the purpose of further investigation. No useful purpose would be served by keeping the petitioner in jail for an indefinite period.

7. For what has been discussed above, instant Criminal Appeal is accepted and petitioners are admitted to post arrest bail subject to their furnishing bail bonds in the sum of Rs. 5,00,000/- each with one surety each in the like to the satisfaction of the learned trial court. These are the reasons for my short order of the even date whereby the petitioners were admitted to bail and were ordered to be released from jail forthwith, if not required in any other case. It is, however, clarified that observations made in this order are tentative in nature and shall not prejudice the case of either party at trial stage.

— s.d. —  
Justice Sardar Muhammad Shamim Khan