

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN
AT GILGIT**

Cr.P.L.A. NO. 13/2014

Before:- Mr. Justice Raja Jalal-ud-Din, Judge.

Mr. Justice Muzaffar Ali, Judge.

1. Dildar Hussain son of Muhammad Kaseer.
2. Akbar Khan son of Khush Khan.
3. Irfan Hussain son of Muhammad Ali.
4. Zaheer Abbas son of Anwar Shah, residents of Sakwar,
Tehsil and District Gilgit.

Petitioners/Accused

VERSUS

1. The State.
2. Faqir Shah son of Khisro Khan resident of Sakwar District
Gilgit.

Respondents/Complainants

**OFFENCE UNDER SECTION 302/324/148/109/34 PPC
VIDE F.I.R. NO. 81/2013 AND 13 ARMS ORDINANCE
OF POLICE STATION JUTIAL GILGIT.**

**PETITION FOR LEAVE TO APPEAL UNDER ARTICLE 60
OF GILGIT-BALTISTAN EMPOWERMENT AND (SELF
GOVERNANCE ORDER) 2009 AGAINST THE
JUDGMENT/ORDER DATED 11/8/2014 OF LEARNED
JUDGE CHIEF COURT WHEREBY THE BAIL GRANTED
ORDER DATED 15/02/2014 OF VACATION JUDGE
GILGIT HAS BEEN RECALLED.**

Present:-

Mr. Amjad Hussain, Advocate for the petitioners.

Advocate General for the respondents.

Mr. Jahanzaib Khan, Advocate for the complainant.

Date of Hearing:- 27-11-2014.

ORDER

RAJA JALAL-UD-DIN, J..... This petition for bail has been preferred by the petitioners against the judgment/order of the Chief Court Gilgit-Baltistan dated 11/08/2014, whereby the bail granted to the petitioners by the vacation Judge Gilgit dated 15/02/2014 was recalled.

The petitioners are of the view that the recalling of the bail by the Chief Court Gilgit-Baltistan is not based on sound reasoning as the petitioners had not misused the concession of bail granted by the Vacation Judge vide order dated 15/02/2014.

Secondly that the petitioners had a good case for the grant of bail on merit based on the ground of consistency with the six accused who had been nominated in the F.I.R and latter on released under section 169 Cr.P.C and both the set of accused had been attributed a similar role according to the F.I.R. That no weapon of offence had been recovered from Dildar Hussain petitioner No.1. Hence the concession of bail has wrongly been denied to him.

The Prosecution on the other hand assisted by Mr. Jahanzaib Khan, Advocate argues that the concession of bail granted to the petitioners by the Vacation Judge was absolutely uncalled for as there existed a prima facie case against the petitioners. All the cordial formalities regarding the prompt F.I.R alongwith the statements of the eye witnesses and the recoveries from the individuals/accused have been conducted in accordance with the statements of the PW's. The motive has also been clearly established in the F.I.R.

The Chief Court Gilgit-Baltistan vide its finding dated 11/8/2014 has rightly recalled the bail granted to the petitioners.

We have minutely gone through the arguments of the counsel for the petitioners and the respondents. The F.I.R has been lodged well within time and the factual manner of the cause and the background of the matter and the incident has been lodged in detail. The dispute between the parties was a result of water rights. Both the parties were claiming the right to water their fields. In this connection the matter was being resolved in the house of complainants but the issue could not be settled.

The petitioners being present in the vicinity of the house of the complainants opened fire resulting in the death of one Mst. Batool and fire shot injuries sustained by Sulaiman, Ali Abbas and Basheer.

The "Lalkara" for the opening of the fire shots was attributed to Dildar Hussain s/o Muhammad Kaseer, thereby indiscriminate fire shots were opened. The injured have clearly named the petitioners for opening of the fire shots who were identified in the light of the electric bulb. The three petitioners namely Akbar, Irfan and Zaheer are directly implicated for opening the fire shots whereas Dildar Hussain petitioner has been attributed the role for the instigating the matter through his "Larkar".

We feel that this court will not discuss the points raised by both the parties in their arguments which may later on hamper and prejudice the mind of the trial court at the stage of decision of the case. We leave it to the trial court to come to an independent conclusion but at this bail stage we have made a tentative assessment of the material on record and we feel that there is a prima facie case against the accused and the concession of bail cannot be extended in their favour. Hence the request is declined.

The case itself has been charged sheeted and fixed for adducing of evidence. The trial court may speed-up the matter and conclude the trial at the earliest.

It is also seen that when bail applications are turned down from the Appellate Court, the complainants try to drag the matter and prolong the trial. The trial court should keep in mind this issue also and conclude the trial in appropriate time. If the complainants unnecessarily prolong the case by not producing the private witnesses than the accused/petitioners are at liberty to move afresh for the concession on bail on the new ground as ordered.

Announced

27-11-2014.

JUDGE

JUDGE