

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

Cr.PLA No. 04/2013.

Before:

Mr. Justice Raja Jala Uddin, Judge.

Mr. Justice Muzaffar Ali, Judge.

Shakoor s/o Muhibullah r/o Batogah Chilas present confined
in Judicial lockup District Jail Diamer.

(Petitioner)

VERSUS

The State

Respondent

**CHARGES UNDER SECTION 302/34/109 PPC VIDE
F.I.R. NO. 41/2012 READWITH SECTION 13 A.O.
F.I.R. NO. 50/2012 P.S. CITY CHILAS.**

**PETITION FOR LEAVE TO APPEAL AGAINST THE
IMPUGNED ORDERS DATED 29/05/2013 PASSED BY
THE CHIEF COURT IN BAIL APPLICATION NO.
18/2013 AND SESSIONS JUDGE DIAMER IN BAIL
APPLICATION NO. 03/2013 DATED 26-03-2013
WHEREBY LEARNED COURTS REFUSED BAIL
FACILITY TO THE PETITIONER.**

**FOR SETTING A SIDE THE SAME BY CONVERTING
THE PETITION FOR LEAVE TO APPEAL INTO APPEAL
AND PETITIONER MAY BE ALLOWED BAIL FACILITY
AND RELEASED ON BAIL TO MEET THE ENDS OF
JUSTICE.**

Present:

Advocate General Gilgit-Baltistan for respondent.

Mr. Amjad Hussain, Advocate for petitioner.

DATE OF HEARING: 24.09.2013

ORDER

Raja Jalal ud din, J..... this appeal was preferred
against the order of chief court Gilgit-Baltistan dated 29-05-
2013 which was turned down initially the application for bail
was not allowed by the Trial Court and bail facility refused
vide order dated 26-03-2013.

The petitioner is of the view that initially 3 accused namely Shakoor the present petitioner, one Naseer and Jam Gull were implicated. The co-accused Jam Gull was released by the police under section 169 Cr. P.C. while accused Naseer was granted bail by the Trial Court vide order dated 26-03-2013.

The counsel for the petitioner is of the firm view that merits of the case are of the nature which call for further inquiry and the entitlement of bail to the petitioner/accused.

Secondly that equal role has been attributed to all the nominated accused, hence the petitioner is entitled for the concession of bail on the grounds of consistency, parity and equality.

The story put forwarded by the prosecution is full of doubt, improbable and cannot be taken into account.

The incident as narrated in the F.I.R. disclosed that it is a night occurrence supplemented by rain, hence the identification of accused is not probable in the dark circumstances with the torch light.

The state on the other hand is of the view that the petitioner/accused is directly charged for the commission of offence by fire shot opened by him. The weapon of offence has also been recovered proving that offence has been committed in the manner stated. The statement of eye witnesses alongwith the other material placed on record makes a good prima-facie case against the petitioner/accused.

We have given through to the contentions raised by both the parties and have also perused the record. The F.I.R. No. 50/12 of Police Station City Chilas clearly discloses the presence of the witnesses as well as the direct nomination of the accused, and the separate role played by them. It is observed to have opened the fatal fire shot at the deceased and his role in the commission of offence is not at par with the role played by other co-accused because direct charge of the fatal fire shot has been attributed specifically to the present petitioner/accused. The role of the released co-accused is not at par with the present case. Secondly the statement of PW's as well as the recovery of other articles has not been constructed after any fatal delay which may raise doubts in the manner in which the occurrence has taken place.

It would not be necessary to comment on the other parts of the case and would not be appropriate to go into further details of the case as it would be fatal to the final outcome of the matter.

The other discussion and reasons given in the present order may not influence the trial judge during the proceedings as the circumstances may change after the adducing of the evidence.

In view of the above mentioned facts we are of the view that the concession of bail is not granted in favor of the

petitioner/accused as there is a prima facie case existing against the petitioner/accused.

Announced:- 26-09-2013

Judge

Judge