

IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN

Cr. Misc. No. 10/2010

Before:- Mr. Justice Muhammad Nawaz Abbasi, Chief Judge
Mr. Justice Syed Jaffar Shah, Judge
Mr. Justice Muhammad Yaqoob, Judge

1. Syed Jabbar.
2. Rahim Ullah sons of Shahzada Khan r/o Sultanabad, Gilgit.

Petitioners/ appellants

Versus

The State

Respondent

OFFENCE UNDER SECTION 302/324/34 PPC AND 13 A.O.

**APPLICATION FOR LEAVE TO APPEAL AGAINST THE IMPUGNED
JUDGMENT/ORDER DATED 30-06-2010, PASSED BY THE CHIEF
COURT GILGIT-BALTISTAN.**

Present:- Malik Haq Nawaz, Advocate for petitioners.
Haji Jamal Khan, Advocate on record.

Dated of hearing:- 04-08-2010.

ORDER.

Mr. Justice Muhammad Nawaz Abbasi, C.J..... The Petitioner while facing trial for the charge under section 302/34 PPC before the Sessions Judge Gilgit, have moved this second application before this court for grant of bail on the ground that in pursuance of observations made by this court in the earlier application disposed of vide order dated 03-09-2009, the petitioners instead of moving trial court filed a direct petition for grant of bail before the Chief Court Gilgit-Baltistan and the learned Chief Judge in chamber by dismissing the bail application has observed as under:-

“The Hon’ble Chief Judge of the Supreme Appellate Court had found that after adducing of evidence when on case would be made out against any accused he should be entitled to the concession of hail instead of facing a long trial”

The learned counsel for petitioner contended that statement of all eye witnesses have been recorded and only formal witnesses are left for examination and that from tentative assessment of the evidence available on

record no case of conviction is made out, therefore, further detention of petitioners in jail pending conclusion of the trial is not justified and that in any case the above observation of the Chief Court with reference to the order of this court may cause prejudice to the petitioners before the trial court and they may not be able to get the benefit of doubt arising in their favour on merits.

The learned counsel also pointed out that as a result of baseless transfer application moved by the complainant before the Chief Court, the proceedings in the trial before the trial court have been struck off and the conclusion of trial has been un-necessarily delayed.

After hearing the learned counsel for the petitioner and perused the record with his assistance we have found that the observations made by the Chief Court has no nexus with the order of this court passed on 30-06-2010 which is read as under:-

“The petitioner instead of agitating for bail before this court may approach the trial court for appropriate relief at proper stage and if so advised moved for the bail to the concern court after the evidence of eye witnesses is

The comments on the merits of the case with reference to evidence at this stage may prejudice the case of either party before the trial court but we have found that the observation of the Chief Court referred above appears to be out of the context therefore same is expunged.

This may be pointed out that the expeditious disposal of a criminal case involving capital punishment is right of accused and the prosecution or compliant as the case mat be must not be allowed to use delaying tactics to prolong the trial at the cost of agony of detention of accused in jail.

The Chief Court in exercise of its power of superintendent and the supervision of subordinate courts in Gilgit-Baltistan must take notice of such matters to avoid un-necessary delay in the disposal of criminal cases

and learned Chief Judge of Chief Court may decide the transfer application on priority to avoid any further delay in the conclusion of trial.

The trial court on the decision of the transfer application shall proceed in the trial day to day and conclude the proceeding within a month.

This petition with above observation/directions stands disposed of.

Chief Judge

Judge

Judge

