

ORDER SHEET**LAHORE HIGH COURT, LAHORE**
JUDICIAL DEPARTMENT

Criminal Miscellaneous No.15456-B of 2016

Salamat

Petitioner

versus

The State and another

Respondents

S. No. of Order/Proceedings	Date of Order/proceedings	Order with signature of Judge and that of parties or counsel where necessary
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17.03.2017	Mr.Muhammad Afzal Chaudhary, Advocate for the petitioner Mr.Irfan Zia, Deputy Prosecutor General for the State and Afzaal SI with record Complainant in person
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Through this petition under section 497 Cr.P.C. the petitioner has sought bail after arrest in case FIR No.245/16 dated 24.05.2016 under sections 302, 342, 379, 337A(i), 337F(i), 337L(2), 148, 149 PPC, registered at Police Station Housing Colony, District Sheikhpura.

2. The arguments advanced by learned counsel for the parties have been heard and record of this case has been perused with their able assistance. This is bail after arrest and deeper appreciation is not allowed at this stage. It has been noticed by this Court that although petitioner is named in FIR, yet the fact remains that there is an unexplained delay of one day in registration of FIR, which prima facie shows that the FIR has been got registered after due deliberation and consultation. It has been further noticed by this Court that initially

the FIR was registered for the offences under sections 337A(i), 337F(i), 337L(2), 342, 379, 148, 149 PPC, out of which sections 337A(i), 337F(i), 337L(2), 342 PPC are bailable offences and sections 379 PPC does not fall under the prohibitory clause of section 497 Cr.P.C. However, after the death of Zulfiqar Ali complainant on 04.06.2016 i.e. twelve days after the alleged occurrence, the provisions of offence under section 302 PPC were added in this case, but now after receipt of the report of Forensic Science Agency, the doctor has finally opined that the death of Zulfiqar Ali complainant occurred due to heart disease and not as a result of injuries sustained by him during the alleged occurrence. Apart from the above, no specific role in the commission of alleged occurrence has been assigned to the petitioner and only general allegation of giving beating to the complainant alongwith co-accused has been leveled against him. The above facts *prima facie* create doubt in the prosecution case and it is settled law that benefit of doubt shall be given to the accused even at bail stage. Admittedly the petitioner is previous non-convict. He is behind the bars since 20.07.2016. Almost six months have lapsed but his trial has not been concluded as yet. Investigation to the extent of petitioner is complete and he is no more required for further investigation. Mere heinousness of offence or commencement of trial is no ground to refuse bail if otherwise the accused becomes entitled to the concession of bail, therefore, no useful purpose would be served by keeping the petitioner behind the bars at this stage.

3. For what has been discussed above, case of petitioner becomes one of further inquiry covered by sub-section (2) of section 497 Cr.P.C. This petition is, therefore, allowed and petitioner is granted bail after arrest subject to furnishing bail bond in the sum of Rs.200,000/- (Rupees two hundred thousand only) with two sureties, each in the like amount to the satisfaction of the learned trial court.

4. The observations made above are tentative in nature and are strictly confined to the decision of this bail petition only.

(Abdul Sami Khan)
Judge

APPROVED FOR REPORTING.

(Abdul Sami Khan)
Judge

Moqaddas