ORDER SHEET
IN THE ISLAMABAD HIGH COURT,ISLAMABAD
JUDICIAL DEPARTMENT

Crl. Misc. No. 623 of 2022

Shair Muhammad

Versus

The State, etc.

Serial No. of order of proceedings	Date of order of proceedings	Order with signatures of judge, and that of parties of counsel, where necessary.
	27.05.2022	Mr. Qaiser Imam Ch., Advocate Mr. Shahbaz Shah, State Counsel. Mr. Adnan Hussain, ASI.

Through the instant petition, petitioner (*Shair Muhammad*) has prayed for post-arrest bail in FIR No.163, dated 12.02.2022, under Sections 324, 337F (iii) 337D, 336, 148/149 PPC registered at Police Station Bhara Kahu, Islamabad.

2. According to the allegations set-forth in the FIR on 12.02.2022 at about 8:25 am near Photohar Jewelers within the area of Police Station Bhara Kahu, petitioner along with co-accused armed with firearms launched an attack upon the complainant Adam Khan and his sons Shaista Khan and Izzat Khan. The role assigned to the petitioner is that he allegedly caused firearm injuries on the person of Shaista Khan and complainant Adam Khan.

3. The learned counsel argued that a false case has been registered against the petitioner; that the petitioner was implicated due to previous enmity; that no incriminating material is available against the petitioner who was also injured and remained admitted in the hospital; that essentials to constitute offence under Section 324 PPC are missing; that case of the

petitioner calls for further inquiry; that he is no more required for further probe therefore, entitled to the concession of bail.

4. On the other hand, learned State Counsel opposed the contentions advanced by learned counsel for the petitioner. It is argued that the petitioner is specifically nominated in the FIR with specific role of causing firearm injuries to the complainant and injured PW; that the offence alleged falls within the ambit of prohibitory clause of section 497 Cr PC, therefore, petitioner is not entitled to the concession of post arrest bail.

5. Arguments heard, record perused.

6. Record reveals that the petitioner is specifically nominated in the FIR with causing of firearm injuries on the person of complainant Adam Khan and PW Shaista Khan. The occurrence in this case allegedly took place on 12.02.2022 at about 8:25 am while the injured Shaista Khan was medically examined on the same day at about 9:00 am and the MLR corroborates the allegations set forth in the FIR. As per MLR of the said injured witness, 3 fire arm injuries were observed with probable duration of injury 30-40 minutes approximately.

7. There is a specific allegation that the petitioner along with co-accused armed with deadly weapons launched an attack upon the complainant and his sons with intention to kill. The allegations, *prima facie*, attract Section 324 PPC which falls within the ambit of prohibitory clause of Section 497 Cr.P.C. Once the trigger is pressed and the victim is effectively targeted '*intention or knowledge*' as contemplated by section 324 PPC is manifested. The Hon'ble Apex Court in the case of '*Sheqab Muhammad V. The State and others'* (**2020 SCMR 1486**) has graciously held that:-

> "*he cannot be released on bail in the absence of any consideration within the purview of subsection 2 of section 497 of the Code ibid. Similarly, murderous assault as defined in the section ibid draws no*

> *anatomical distinction between vital or non-vital parts of human body. Once the trigger is pressed and the victim is effectively targeted 'intention or knowledge' as contemplated by the section ibid is manifested; the course of a bullet is not controlled or steered by assailant's choice nor can he claim any premium for a poor marksmanship. Exercise of discretion by the High Court being well within the bounds of law calls for no interference. Petition fails. Leave declined."*

8. In view of above tentative assessment, sufficient incriminating material is available on record which *prima facie* connects the petitioner with the commission of alleged offence that falls within the ambit of prohibitory clause of Section 497 Cr.P.C. consequently instant Crl. Misc. is **dismissed.**

9. The observations made hereinabove are tentative in nature and shall not prejudice the case of either party.

(ARBAB MUHAMMAD TAHIR)
JUDGE

//Kamran//