

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

BEFORE:-

***Mr. Justice Sardar Muhammad Shamim Khan, Chief Judge.
(In Chamber)***

Cr. Appeal No. 03 of 2025

Abdul Rasheed

(Petitioner)

Versus

The State

(Respondent)

Present:-

1. M/s. Aurangzeb Khan, Advocate & Ammar Saqib Advocate for the Petitioner
2. Mr. Muhammad Qadir , Prosecutor General for the State
3. Mr. Muhammad Iqbal Advocate for the Complainant.

Date of hearing: 30.05.2025

JUDGMENT

Sardar Muhammad Shamim Khan, Chief Judge :Through instant criminal appeal, the petitioner namely Abdul Rasheed seeks post arrest bail in case FIR No. 30 of 2024 dated 16.09.2024 offences under sections 324, 337-F(iv)/34 PPC registered at Police Station KKH, District Diamer.

2. According to the FIR, on 15.09.2024 at about 05:00 PM, Hazrat Bilal and Muhammad Hanif (Co-accused) caught hold of Jehanzeb (brother of complainant) whereas Abdul Rasheed (petitioner) inflicted firearm injury on the person of injured PW (Jehanzeb) which landed on his right thigh. Hence, instant FIR was registered.

3. Learned counsel for the petitioner contended that petitioner has falsely been implicated in the instant case on the basis of malafides; that there is an extraordinary delay of one day in lodging the FIR; that allegation against the petitioner is that he (petitioner) fired at non-vital part of the body of injured PW (Jehanzeb); that there is no allegation against the petitioner that either he inflicted

firearm injury on the vital part of the body of the injured P.W or repeated the same; that after medical examination of the injured PW, the doctor did not declare the nature of injury rather on 15.09.2024 an opinion was sought from Radiologist; that the said Radiologist gave his opinion on 27.01.2025 with the delay of more than three months and according to said opinion/report no bony abnormality was observed on the right thigh of injured PW by said Radiologist; that the injury attributed to the petitioner was not declared dangerous to life by the doctor; that the injury sustained by the injured PW was simple in nature, therefore, application of offence under section 324 PPC against the petitioner requires further inquiry; that in fact the complainant party launched an attack at the accused party, therefore regarding the same occurrence, case FIR No. 31 of 2024 offences under sections 324/34 PPC was registered against the complainant party at the same Police Station at the instance of accused party, therefore, it is a case of two versions; that petitioner is behind the bars since his arrest and is no more required by the police for the purpose of further investigation. Thus, it is submitted that by accepting instant CrI. appeal, the petitioner may be released on bail.

4. Learned counsel for the complainant as well as learned Prosecutor General have vehemently opposed the instant criminal appeal on the ground that there is specific allegation against the petitioner that he (Petitioner) inflicted firearm injury on the right thigh of injured PW(Jehanzeb); that during investigation, police recorded statements of PWs under section 161 Cr. PC wherein they fully implicated the petitioner in the commission of instant occurrence; that crime weapon was recovered from the possession of the petitioner and he was declared guilty by the police during investigation; that the offences alleged against the petitioner fall within the ambit of prohibitory clause of section 497 Cr. PC. Thus, it is submitted that instant appeal is liable to be dismissed.

5. Arguments heard. Record Perused.

6. It has been noticed that instant occurrence took place on 15.09.2024 at about 05:00 PM whereas matter was reported to the police on 16.09.2024 at about 06:30 PM with an extraordinary delay of about One day for which no proper explanation has been furnished by the complainant in the FIR. As per allegation, Hazrat Bilal and Muhammad Hanif (Co-accused) caught hold of Jehanzeb (brother of complainant) whereas Abdul Rasheed (petitioner) inflicted firearm injury on the person of injured PW (Jehanzeb) which landed on his right thigh. Prima facie the

story of prosecution seems to be highly improbable because for infliction of firearm injury there was no need of catching-hold of the injured P.W by the aforesaid two co-accused . There is no allegation against the petitioner that he (petitioner) repeated fire on the person of injured PW. Injury attributed to the petitioner was not declared dangerous to life. Had the petitioner intention to kill Jehanzeb (injured PW) he could have fired at the vital part of his body as Jehanzeb (Injured PW) was at his mercy at that time. In these circumstances, the application of offence under section 324 PPC against the petitioner would be determined by learned trial court after recording of prosecution's evidence. The injured PW namely Jehanzeb was medically examined by the doctor and injury on his right "*thigh*" attributed to the petitioner was kept under observation till the receipt of report of Radiologist. On 27.01.2025 Radiologist submitted his report with the delay of more than three months wherein no bony abnormality was observed on the right thigh of injured PW by said Radiologist. The nature of said injury was not declared by the doctor in the light of said opinion of radiologist but surprisingly the police inserted the offence under section 337-F(iv), PPC in the instant case. The injury on the person of injured P.W attributed to petitioner was not declared by the doctor till yet, therefore, said injury would be deemed to be simple in nature. Even otherwise, the maximum punishment provided for the said offence under section 337-F(iv), PPC is five years which does not come within ambit of prohibitory clause of section 497 Cr. PC.

7. Perusal of record further reveals that regarding the same occurrence, case FIR No. 31 of 2024 offences under sections 324/34 PPC has been registered against the complainant party at Police Station Karakoram Highway, Diامر at the instance of accused party, therefore, it is a case of two versions. Learned Trial Court after recording the evidence of the parties would come to the conclusion that which party was aggressor. It has further been noticed that motive part of the prosecution story did not suggest that the petitioner had intention to kill the injured P.W rather there was a dispute of ownership of '*pine nut*' between the parties as admitted by the complainant in the FIR, which prima facie was a minor dispute. The report under section 173 Cr.P.C has not been submitted by the police before the learned trial court and trial of instant case has not commenced till yet. The petitioner is behind the bars for a period of more than 9- months and is no

more required by the police for the purpose of further investigation. No useful purpose would be served by keeping the petitioner in jail for an indefinite period.

8. For what has been discussed above, instant Criminal Appeal is accepted and petitioner is admitted to post arrest bail subject to his furnishing bail bonds in the sum of Rs. 2,00,000/- with one surety each in the like to the satisfaction of the learned trial court. These are the reasons for my short order of the even date whereby the petitioner was admitted to bail and was ordered to be released from jail forthwith, if not required in any other case. It is, however, clarified that observations made in this judgment are tentative in nature and shall not prejudice the case of either party at trial stage

- 5 -
(Justice Sardar Muhammad Shamim Khan)
Chief Judge