

IN THE LAHORE HIGH COURT, LAHORE.

Before **MALIK SHAHZAD AHMAD KHAN, J**

Crl. Misc. No.15780-B/2014

MUHAMMAD ISHTIAQ Petitioner

Versus

THE STATE AND ANOTHER Respondents

POLICE STATION : Qila Gujjar Singh, District Lahore.
FIR No.671/2013 Dated 20.8.2013

OFFENCE : Under Section 295-B of PPC

PETITION : Under Section 497 Cr.P.C. for grant of bail
after arrest.

DECISION : Bail Petition dismissed on 04.12.2014

06.08.2014 Muhammad Amin Dar, Advocate for the petitioner.
Mr. Muhammad Akram Tahir, DDPP with Zulfiqar Ali SI.

Through the instant petition, the petitioner seeks post

Form No:HCJD/C-121

ORDER SHEET

**IN THE LAHORE HIGH COURT LAHORE
JUDICIAL DEPARTMENT**

Case No:

Criminal Miscellaneous No. 15780-B of 2014

Muhammad Ishtiaq

Versus The State and another.

S.No. of order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge, and that of parties of counsel, where necessary.
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04.12.2014.

Muhammad Amin Dar, Advocate for petitioner.
Mr. Muhammad Akram Tahir, DDPP with Zulfiqar Ali SI.

Through the instant petition, the petitioner seeks post arrest bail in case FIR No. 671/2013 dated 20.08.2013 offence under section 295-B PPC registered at Police Station Qila Gujjar Singh, District Lahore on the complaint of Shah Faqir SI, complainant.

2. As per contents of the FIR, the allegation of defiling of holy Quran has been levelled against the petitioner.

3. This is second post arrest bail application, filed by the petitioner before this court as the earlier application filed by the petitioner, seeking his post arrest bail bearing Crl. Misc. No. 6675-B of 2014 was dismissed as having been withdrawn vide order dated 23.05.2014, however, a direction was issued to the learned trial court to conclude the trial of the petitioner within a period of three months.

4. It is contended by learned counsel for the petitioner that the petitioner is absolutely innocent and has falsely been implicated in this case; the petitioner is a chronic patient of mental disorder and he is not in a position to defend his case; that during the trial, the petitioner was examined at the Punjab Institute of Mental Health, Lahore and he was found patient of

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"Bipolar Affective Disorder"; that a wrong year of occurrence has been mentioned in the charge sheet, which has vitiated the trial of the petitioner; that while dismissing the earlier bail application of the petitioner on 23.05.2014, a direction was given by this court to the learned trial court to conclude the trial in this case within a period of three months, which direction has not been complied with; that the petitioner was arrested in this case on 20.08.2013 and he is entitled to the concession of bail on the ground of expiry of statutory period, therefore, this petition may be accepted and the petitioner may be granted post arrest bail.

5. On the other hand, this petition has been opposed by the learned DDPP.

6. Arguments heard. Record perused.

7. This is second post arrest bail petition, filed by the petitioner before this court. The earlier bail application of the petitioner was dismissed as having been withdrawn after arguing the case at some length vide order dated 23.05.2014. The grounds qua ailment of the petitioner and regarding mentioning of wrong year of occurrence in the charge sheet were available to the petitioner at the time of dismissal of his earlier bail petition, therefore, the same grounds cannot be pressed again for the grant of bail to the petitioner. Moreover it is evident from the perusal of record that on 28.11.2013, the petitioner was examined by the medical board of Punjab Institute of Mental Health, Lahore and he was found fit to stand trial and as such he is not entitled to the grant of bail on medical grounds.

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8. Insofar as the grounds of delay in conclusion of the trial of the petitioner and violation of the order of this court dated 23.05.2014, whereby the learned trial court was directed to conclude the trial of the petitioner within a period three months are concerned, I have noted that the petitioner was arrested in this case on 20.08.2013. On 02.11.2013, the learned trial court fixed the case for framing of the charge but on the said date, father of the petitioner filed an application for constitution of the medical board in order to determine the mental health of his petitioner, therefore, the charge could not be framed. Thereafter adjournments were granted in the case on 07.11.2013, 21.11.2013, 20.12.2013 and 09.01.2014, either due to pendency of the aforementioned application or on the request of father of the petitioner. The charge against the petitioner was framed on 12.03.2014 and even after framing of the charge, adjournments were granted in this case on 12.05.2014, 17.06.2014, 08.07.2014, 05.08.2014 and 15.09.2014, either on the ground that learned counsel for the petitioner was not available or on the ground that another application was moved on behalf of the petitioner for constitution of the second medical board. This is evident from the perusal of record that the petitioner himself contributed towards the delay in the conclusion of his trial.

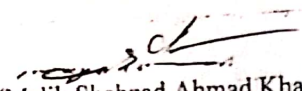
This court vide order dated 23.05.2014 directed the learned trial court to conclude the trial of the petitioner within a period of three months but thereafter on 17.06.2014, an application was moved on behalf of the petitioner for constitution of the second medical board for determination of his mental condition and dates of hearing like 08.07.2014 and 05.08.2014 were granted due to the pendency of the aforementioned

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application, whereas on 15.09.2014, the prosecution witness namely Shah Faqeer SI (complainant) was present but the case was adjourned as the petitioner stated that he was unable to engage a counsel in this case. In the light of above, it is evident that the petitioner himself was responsible for the delay in the conclusion of his trial. In the light of above discussion, there is no substance in the present petition, hence the same is hereby dismissed. However, the learned trial court is directed to conclude the trial of the petitioner within a period of three months, even if it has to proceed on day to day basis.

9. It is, however, clarified that observations made in this order are tentative in nature and shall cause no prejudice to the case of either party at the time of final adjudication of the case before the learned trial court.


(Malik Shahzad Ahmad Khan)
Judge

TRUE COPY

In Case No.

Aftazul

26/12/14
Examiner: J.C.B (Copy B)
Lahore High Court, Lahore.

IN THE LAHORE HIGH COURT LAHORE

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CRL . MISC . NO:

15780-
-B - 2014

Muhammad Ishtiaq son of Muhammad Sadiq, Caste, Rajput, resident of House No: 6/7, Street No: 10, Mohallah Muhammad Nagar, Qila Gujjar Sing, Lahore now confined in District Jail, Lahore.

..... Petitioner

Versus

1. The State
2. Shah Faqir Sub Inspector, Police Station, Qila Gujjar Sing, Lahore

..... Respondents

FIR No: 671/13
Under Section.
Police Station:

Dated: 20.8.13
295-B PPC
Qila Gujjar Singh, Lahore

PETITION UNDER SECTION 497 CR.P.C. FOR POST ARREST BAIL TO THE PETITIONER.

Respectfully Sheweth:

1. That on receipt of a call from Wireless Control 15 stating thereby that one in his House No: 6/7, Street No: 10, Mohallah Muhammad Nagar has been defiling and desecrating the Holy Quran Respondent No: 2 complainant alongwith his subordinates reached at the spot on 20-8-13 at 12:45 by night time and saw the