

1997SCMR1234

[Supreme Court of Pakistan]

Present: Ajmal Mian, Abdul Hafeez Memon and Mukhtar Ahmad Junejo, JJ
Dr. MUHAMMAD SHOAIB SUDDLE, D.I.-G. POLICE, KARACHI and
others---Petitioners
versus
THE STATE---Respondent

Criminal Petitions Nos.214-K and 215-K of 1996, decided on 16th December, 1996.

(On appeal from the judgment/order, dated 2-12-1996, of the High Court of Sindh. Karachi, passed in Cr. Bail No.1890/1996 and Cr, Bail No.1881/96 respectively). ,

(a) Criminal Procedure Code (V of 1898)---

S. 498---Pre-arrest bail---Principle---Arrest for ulterior motives such as humiliation and unjustified harassment is a valid consideration for .grant of pre-arrest bail.

Hidayatullah Khan. v.' Crown PLD 1949 Lah. 21; Sadiq Ali v. State PLD 1966 SC 589; Murad Khan's case PLD 1983 SC 82. Ziaul Hassan's case PLD 1984 SC 1 and Jamaluddin v. State 1985 SCMR 1949 ref.

(b) Criminal Procedure Code (V of 1898)-

---S. 498---Penal Code (XLV of 1860) Ss.302/120-B/148/149---Constitution of Pakistan (1973), Art.185(3)---Pre-arrest bail---Accused was not shown in all the three F.I.Rs. to be present at the scene of occurrence at any time before or after the incident resulting in the death of deceased, a political leader, and his companions---No material as yet was available with the prosecution showing involvement of accused in the alleged conspiracy by the political opponents of deceased in the Federal and Provincial Governments to eliminate him---Accused was not named in the interim challan as an accused person in the relevant columns, nor his name was included in column No.2 thereof and yet the police was out to arrest him---Petition for leave to appeal was converted into appeal in circumstances and pre-arrest bail was granted to accused accordingly.

Hidayatullah Khan v. Crown PLD 1949 Lah. 21; Sadiq Ali v. State PLD 1966 SC 589; Murad Khan's case PLD 1983 SC 82; Ziaul Hassan's case PLD 1984 SC 1 and Jamaluddin v. State 1985 SCMR 1949 ref.

(c) Criminal Procedure Code (V of 1898)---

---S. 498---Penal Code (XLV of 1860), Ss.302/120-B/148/149---Constitution of Pakistan (1973), Art.185(3)---Pre-arrest bail---Accused Police Officers were shown to be present at the place of occurrence at the time of incident which resulted in the death of deceased, a political leader, and his party men due to firing by the police party---No case for grant of pre-arrest bail to accused was made out---Petition for leave to appeal was dismissed accordingly.

Hidayatullah Khan v. Crown PLD 1949 Lab. 21; Sadiq Ali v. State PLD 1966 SC 589; Murad Khan's case PLD 1983 SC 82; Ziaul Hassan's case PLD 1984 SC 1 and Jamaluddin v. State 1985 SCMR 1949 ref.

K.M.A. Samdani, Senior Advocate Supreme Court with Rashid Akhtar Qureshi, Advocate-on-Record for Petitioners (in both Petitions).

M.L. Shahani, Advocate-General, Sindh for the State.

I.A Hashmi, Advocate Supreme Court for the Complainant.

Date of hearing: 16th December, 1996.