

SUPREME COURT OF AZAD JAMMU AND KASHMIR
(Shariat Appellate Jurisdiction)

PRESENT

Raja Saeed Akram Khan, J.
Ghulam Mustafa Mughal, J.

Criminal appeal No.56 of 2019
(Filed on 26.08.2019)

Nazia Bibi w/o Mohammad Azam, caste Jatt,
r/o Pithorani, Tehsil and District Bhimber.

....ACCUSED-APPELLANT

VERSUS

1. The State through Advocate-General.
2. SHO Police Station, Bhimber.
3. Abdul Rehman son of Peeran Ditta,
caste Jatt, r/o Pithorani, Tehsil and
District Bhimber.

....RESPONDENTS

(On appeal from the judgment of the Shariat
Appellate Bench of the High Court dated
10.07.2019 in criminal revision petition
No.169 of 2019)

FOR THE APPELLANT: Miss Nosheen Iqbal,
Advocate.

FOR THE RESPONDENTS: Mr. Abdul Wahid
Amir, Advocate and
Raja Saadat Ali Kiani,
Additional Advocate-
General.

Date of hearing 22.01.2020

JUDGMENT:

Raja Saeed Akram Khan, J.— The instant appeal has been filed against the judgment of the Shariat Appellate Bench of the High Court (High Court) dated 10.07.2019, whereby the revision petition filed by the appellant, herein, has been dismissed.

2. The summary of the facts necessary for disposal of this appeal is that on the report of complainant-respondent No.3, herein, a case in the offences under section 302 and 34, APC was registered against the accused-appellant and another, on 09.01.2018, at police station Bhimber. The allegation leveled

against the accused-appellant is that she with the connivance of paramour gave intoxicant drugs to her husband and thereafter murdered him by strangulation. On the registration of the case, police apprehended the accused-appellant and after completion of the investigation presented the *challan* in the District Court of Criminal Jurisdiction, Bhimber. The accused-appellant moved an application for grant of bail in the trial Court which was rejected vide order dated 01.06.2019 and against the said judgment/order she filed a revision petition before the High Court. The learned High Court vide impugned judgment/order has also dismissed the revision petition, hence, this appeal.

3. Miss Nosheen Iqbal, Advocate, the learned counsel for the accused-appellant argued that the impugned judgment is based on non-appreciation of the record which is not

sustainable in the eye of law. She contended that the accused is female and mother of 5 children and she is behind the bars since two years. The trial has not been concluded as yet; therefore, the accused is entitled for grant of bail on the statutory ground. She contended that both the Courts below failed to adhere to the law on the subject and the material available on record.

4. On the other hand, Mr. Abdul Wahid Amir, Advocate, the learned counsel for the complainant strongly controverted the arguments advanced by the learned counsel for the accused-appellant. He submitted that the accused-appellant has been nominated in the FIR along with a co-accused. The accused-appellant actively participated in the commission of heinous offence. She murdered her husband in a brutal manner; therefore, the Courts below rightly formed the opinion that

the accused is a hardened, desperate and dangerous criminal and not entitled for the concession of bail on the statutory ground. The Courts below after due application of judicial mind refused to grant the concession of bail to the accused and the interference in the orders passed by the Courts below is not warranted under law. He also submitted that there is a positive progress in the trial and the statements of almost four witnesses have been recorded.

5. Raja Saadat Ali Kiani, the learned Additional Advocate-General also adopted the arguments advanced by the learned counsel for the complainant and prayed for dismissal of appeal.

6. We have heard the arguments and gone through the record made available along with the impugned judgment. The allegation

levelled against the accused-appellant is that she with the connivance of her paramour gave intoxicant drugs to her husband and thereafter killed him by strangulation. It is a bail matter and under law while dealing with the bail matters, the Court has to confine itself to examine the material, i.e., the statements recorded under section 161, Cr.P.C, allegation levelled in the FIR and medical evidence etc. and deeper appreciation of the evidence is not warranted under law. From the cursory examination of the material made available on record prima facie reasonable grounds for believing that the accused is guilty of an offence, falls within the prohibitory clause of section 497, Cr.P.C. are available. The appellant moved application before the trial Court and sought bail on statutory ground; but the trial Court while declaring her as hardened, desperate and dangerous criminal

refused to grant concession of bail and the learned High Court concurred with the findings recorded by the High Court; however, we do not intend to record any findings in this regard as the same may prejudice the case of either party. As the trial is in progress and the statements of 4 witnesses have already been recorded, therefore, instead of deciding the matter on merit, in our view, the disposal of appeal with the direction of expeditious disposal of the main case would be in the interest of justice.

In view of the above, this appeal is disposed of with the direction to the trial Court to take all the necessary measures to procure the attendance of the witnesses and decide the case expeditiously within a period of 4 months positively from the communication of the judgment of this Court and also submit the compliance report before this Court through

Additional Registrar Branch Registry Mirpur.

The appellant may approach the Court for grant of bail if the trial is not concluded within the stipulated period.

Mirpur,
23.01.2020

JUDGE

JUDGE

Nazia Bibi v. The State & others

ORDER:-

The judgment has been signed. The same shall be announced by the Addl. Registrar after notifying the learned counsel for the parties.

Mirpur,
23.01.2020

JUDGE

JUDGE