

**SHARIAT APPELLATE BENCH OF HIGH COURT OF AZAD JAMMU &  
KASHMIR**



Cr. Revision petition: 57/2024;  
Institution: 06.05.2024;  
Hearing: 23.06.2025;  
Decision: 27.06.2025.

Mudassar Hanif S/o Muhammad Hanif, caste Wains R/o Khamb Kangra  
Tehsil Barnala District Bhimber.

.....Petitioner

**VERSUS**

1. The State through Additional Advocate General of Azad Jammu & Kashmir Mirpur;
2. Mst. Robina Kousar wife of Muhammad Shakeel, caste Jatt R/o Kangra Khurd Tehsil Barnala District Poonch.

....Respondents

**REVISION PETITION**

**BEFORE:- Justice Chaudhary Khalid Rasheed, J.**

**APPEARANCES:**

Raja Inamullah Khan, Advocate for the petitioner.  
Mr. Muhammad Farooq Minhas, Advocate for the complainant.  
Mr. Muhammad Khalil Ghazi, AAG for the State.

**VERDICT:**

The captioned revision petition is hereby dismissed.

**JUDGMENT:**

**FOREWORD:**

The captioned revision petition has been preferred against the order passed by learned District Court of Criminal Jurisdiction Bhimber dated 27.04.2024, whereby post arrest bail application filed by accused/petitioner has been declined.

Precise facts forming background of the instant petition are, on the complaint of Mst. Robina Kousar wife of Muhammad Shakeel FIR No.195/2021 was registered at Police Station Barnala in the offences under sections 302/452 and 109-APC on 15.09.2021. As per the allegation against the accused/petitioner was, he murdered Mst. Gulnaz and Mst. Nazir Begum with pistol. The police after investigation submitted challan before the trial Court. During trial, the petitioner herein filed an application for his release on bail on statutory ground. The learned Court below after hearing arguments pro and contra, rejected the application by declaring the petitioner as being dangerous, desperate and hardened criminal through its impugned order dated 27.04.2024, hence the captioned revision petition.

**STANCE OF THE PETITIONER:**

The learned counsel for the petitioner vehemently argued that the petitioner being a legal heir of the deceased persons cannot be awarded maximum punishment of Qisas. The learned advocate contended that it has not been disputed by the other side that accused person remained behind the bars for more than 3 years and 6

months, thus entitled to be enlarged on bail on statutory ground. The learned advocate claimed that an accused cannot be declared hardened, dangerous and desperate criminal merely on the ground that he killed more than one persons of a family, so the impugned order recorded by the Court below is liable to show the doors. He vehemently contended that the accused is not a previous convict, hence requested for the acceptance of the instant revision petition. The learned counsel placed his reliance on the following case laws:

1. 2014 SCR 750;
2. 2023 SCR 442;
3. 2015 SCR 1060;
4. PLD 2022 SC 112;
5. PLD 2024 SC 492;
6. An unreported judgment of this Court rendered in case titled Muhammad Farooq & others v. the State etc. decided on 07.04.2025.

#### **REFUTATION OF THE RESPONDENTS:**

The learned counsel for the complainant confronted with vehemence that keeping in view of the manner and effect of the occurrence to the family of victim, the Court below has accurately declared the petitioner as a hardened, dangerous and desperate criminal. He proceeded further that the statements of all the important witnesses have already been recorded and the trial is at the verge of conclusion, hence the accused is not entitled to be enlarged on bail, so the impugned judgment is liable to be maintained.

The learned AAG stated that accused also murdered his mother in law, hence, he is not her legal heir thus, can be awarded the

punishment of Qisas, so the revision petition is liable to turn into ashes.

I have heard the learned counsel for the parties, gone through the record of the case with utmost care and caution.

**COURT OBSERVATIONS AND RELEVANT LAW:**

As per contents of FIR, the accused in a daylight by arming himself with a loaded pistol entered into the house of the deceased persons, raised lalkara that he will take the life of anyone came in front of him, fired by targeting Mst. Gulnaz and thereafter also killed Mst. Nazir Begum who tried to save her daughter, both succumbed to their injuries and expired. Upon seeing occurrence, one of the inmate named Hira run out of home towards street but the accused chased her and snatched her mobile with the intention that she could not inform about the occurrence to anybody, thus it appears that the accused committed the said traumatic incident with pre-planning and in his full senses as it is evident from the record that relations between the accused and his wife Mst. Gulnaz were strained, `Mst. Gulnaz left his house and was living in the house of her parents but he also killed his mother-in-law who just came forward to rescue her daughter due to multiple fire shots of the petitioner by a firearm weapon in an indiscriminate manner

The proviso of section 497, though extends a statutory right of bail to an accused of an offence punishable with death who is in

detention for a continuous period exceeding two years and trial has not been concluded subject to the conditions that delay in the trial has not been occasioned by an act or omission of the accused or any other person acting on his behalf, he is not previously convicted and is also not a hardened, desperate and dangerous criminal. It is not denied by the prosecution that the accused is not previously convicted, however the Court below has declared the accused as hardened, dangerous and desperate criminal, thus the core question which is required to be resolved is as to whether the act of the accused comes within the ambit of a hardened, dangerous and desperate criminal or not? This question has been attended by the superior Courts in plethora of judgments. One of the landmark judgment on this point was reported as 2000 SCR 1, wherein the Supreme Court of Azad Jammu & Kashmir has observed that while deciding the question that as to whether an accused is hardened, dangerous and desperate criminal, the court has to ponder the circumstances of each case, i.e. motive of murder, part played by the accused, prima facie evidence in support of the act and the effect of the act of the accused person on the family of victim alongwith society at large. The relevant observations recorded at page 5 para 5 of the judgment are reproduced as under:

“We have given due consideration to the matter. We are of the opinion that the question as to whether an accused is hardened, desperate or dangerous criminal within the meaning of the aforesaid proviso is to be seen in light of the circumstances of

each case, i.e., (i) motive for murder, (ii) the part which each of the accused played in the completion of the offence, (iii) prima facie evidence in support of the incriminating act attributed to the accused persons, and (iv) the effects of the act of the accused on the family of victims and on the society at large.”

The Supreme Court of Pakistan in PLD 1990 SC 934 by considering the Shorter Oxford English Dictionary has defined the words hardened, desperate and dangerous by observing that for applicability of the statutory proviso of section 497 Cr.P.C. the circumstances of the each case, effect of act of accused on the victim and society should be kept in mind. The relevant observations are reproduced as under:

“According to the same dictionary the word ‘harden’ has been defined to mean, inter alia, (1) to render or make hard, to indurate, (2) to embolden, confirm, (3) to make callous or unfeeling and (4) to make persistent or obdurate in a course of action or state of mind. The word ‘hardened’ has also been defined to mean ‘made hard, indurated; rendered callous; hard-hearted; obdurately determined in a course’.

The same dictionary gives the meaning of word ‘desperate’ inter alia, in relation to person driven to desperation hence reckless, violent, ready to risk or do anything.

The same dictionary gives the meaning of the word ‘dangerous’, inter alia, as fraught with danger or risk; perilous, hazardous, unsafe.”

It is evident from the above observations that while dealing with the question of the applicability or non-applicability of the aforesaid proviso along with the literal meaning of the words employed in the proviso, the circumstances of each case and

the fall-out of the act attributed in the accused on the victims and society should be kept in view.”

As observed earlier, the accused/petitioner in a daylight entered into the house of the deceased persons, made indiscriminate firing, murdered two innocent women with premeditation which obviously unprecedentedly shocked and affected the family of the victims by created an extreme fright to public at large, thus in the light of judgment supra, the petitioner/accused can safely be declared as a dangerous and desperate criminal because he has done the occurrence fearlessly.

Furthermore, record also reveals that 8 crime empties were recovered from the scene of occurrence which prima facie reveals that he fired multiple shots which is expected to effect and create a sense of fear to the neighbourhood, hence this behaviour of the accused also disentitled him from the concession of bail.

Moreso, the statements of material prosecution witnesses have been recorded and only the statements of P.W. 19, 20 and 21 are to be recorded, thus on this score too, the accused is not entitled to get the concession of bail even on statutory ground because the superior Courts have held in various judgments that if the trial of the case is at the verge of conclusion the concession of bail is normally not expected to be awarded even on statutory grounds. Reliance may be place on PLD 1994 Supreme Court 93 and 2019 MLD 906.

Keeping in view the above debate and overall circumstances of the instant case, I am of the view that the Court below has rightly declared the accused person as a desperate and dangerous criminal and accurately denied him the concession of bail, hence, the impugned order entails to be sustained.

**DISPOSAL:**

The nub and substance of the above discussion is, finding no essence the instant revision petition is hereby sacked.

**Circuit Mirpur;**  
**27.06.2025.**

**JUSTICE**

Approved for reporting.

**JUSTICE**