

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
BANNU BENCH.
(Judicial Department)

Cr.M B.A No.526-B/2025

Bakht Ullah
Vs
The State & others

JUDGMENT

Date of hearing: 21.11.2025

Present:

For Petitioner: Mr. Alamgir Khan, Mandan Advocate.

For Respondent: Mr. Sawar Khan, Advocate.
Mr. Irfanullah Barakzai, Advocate.

For State: Mr. Muhammad Asghar
Ahmadzai Addl.A.G.

ABDUL FAYAZ, J.- Bakht Ullah, the petitioner, is under arrest in case FIR No.122, dated 05.07.2025, registered under Sections 302/336-B/338-C/201 P.P.C at Police Station Miryan, District Bannu. His request for bail was earlier declined by the learned Additional Sessions Judge-III, Bannu vide order dated 13.08.2025; hence, he has approached this Court for the same relief.

2. As per the contents of the FIR, the allegation against the petitioner/accused is that on 05-07-2025, the complainant, Umer Sher, along with the dead body of his daughter, Mst. Sabeela Bibi, wife of the petitioner/accused Bakht Ullah, reported the matter to the local police at DHQ Hospital, Bannu. The complainant stated that on the aforementioned date, he was at home when he received information that his daughter, the deceased, was being brought to DHQ Hospital, Bannu, as she was unwell. Upon receiving this information, the complainant, accompanied by relatives, rushed to the hospital, where he found his daughter deceased. Thereafter, the complainant came to know that at about 08:00 hours, at the place of occurrence, the accused, Bakht Ullah, assaulted his wife, the deceased, with kicks and fists blows. Thereafter, the accused allegedly poured petrol on her and set her on fire, with the intention to commit Qatl-e-Amd. The accused then transported the deceased to DHQ Hospital, Bannu, where she succumbed to her injuries. The alleged motive behind the occurrence was a family dispute

between the deceased and the accused, coupled with the accused's purported involvement with another woman. This forms the basis of the FIR in the present case.

3. I have heard the learned counsel for the parties, including the learned Additional Advocate General representing the State, and have perused the record.

4. Perusal of the record reveals that the petitioner/accused is directly implicated in the FIR in relation to the commission of the alleged offence. Although the complainant was not an eyewitness to the incident, on 14-07-2025, Mst. Ishal Bibi, a minor daughter of the deceased, appeared before the learned Judicial Magistrate-II, Bannu, and recorded her statement under Section 164, Cr.P.C. In her statement, she deposed that her father (the petitioner/accused) first assaulted her mother and thereafter poured petrol on her and set her ablaze. Furthermore, the local police recovered from the scene two pieces of burnt clothing belonging to the deceased, a 1½-liter bottle containing approximately one-tenth of

petrol, and a small lighter. The recovery of these items aligns with the allegations leveled against the petitioner/accused and provides corroboration in support of the prosecution's version. The offences with which the petitioner/accused stands charged squarely falls within the prohibitory clause of Section 497, Cr.P.C. It is well-settled that at the bail stage, only a tentative assessment is permissible to determine whether reasonable grounds exist for believing that the accused has committed the alleged offence. Where such grounds are found to exist, bail is liable to be refused. In *Haji Shah Behram v. The State and others* (2021 SCMR 1983), the Apex Court observed:

"Criminal cases, invariably resting upon vastly distinguishable facts, do not admit space for hard and fast rules, empirically applicable with any degree of unanimity in every situation; in each case culpability of an accused is to be assessed, having regard to its own peculiar facts and circumstances, therefore, determination of "sufficient grounds" in contradistinction to "further inquiry" has to be essentially assessed, with a fair degree of objectivity on the basis of evidence collected during the investigation; wording employed as "there are no reasonable grounds for believing that the accused has committed a

*non-bailable offence" is an expression of higher of import and, thus, cannot be readily construed in the face of material, *prima facie*, constituting the offence complained. "Every hypothetical question which can be imagined would not make it a case of further inquiry simply for the reason that it can be answered by the trial subsequently after evaluation of evidence" [PLD 1994 Supreme Court 65 (*Shah Zaman and others v. The State and another*)]. Similarly, "mere possibility of further inquiry which exists almost in every criminal case, is no ground for treating the matter as one under subsection (2) of section 497, Cr.P.C. [PLD 1988 Supreme Court 621 (*Asmat Ullah Khan Vs. Bazi Khan and another*)]. It clearly manifests that expression "further inquiry" is a concept far from being confounded in subjectivity or to be founded upon denials or parallel stories by the defence; it requires a clear finding deducible from the record so as to be structured upon a visible/verifiable void, necessitating a future probe on the basis of material hitherto unavailable."*

Similarly, in the case of **Arbab Ali v. Khamiso and others** reported as 1985 SCMR 195, the Apex Court held:

"It needs to be clarified that bail can be allowed (in a case otherwise allegedly falling under the prohibition contained in subsection (1) of section 497) under subsection (2) of section 497, Cr.P.C. when there are sufficient grounds, for further inquiry into the guilt of the accused but only on the condition when the Police Officer or the Court at any stage of investigation, inquiry or trial, as the case may be, comes to a definite conclusion that there are no reasonable grounds

for believing that the accused has committed a non-Bailable offence. Without this finding bail cannot be allowed under subsection (2) on mere ground that there are sufficient grounds of further inquiry."

5. In the present case, upon tentative assessment of the material available on record, sufficient incriminating evidence connects the petitioner with the commission of the alleged offence. Hence, no ground exists to extend the concession of bail to him.

6. For the foregoing reasons, the instant bail petition stands dismissed. The observations made herein are tentative in nature and shall not, in any manner, prejudice the learned Trial Court in forming its independent opinion at the time of final adjudication.

Announced
21.11.2025

Sher Qadullah/steno

(S.B) Hon'ble Mr. Justice Abdul Fayaz

SCANNED
26 NOV 2025
Khalid Khan

26/11