

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

W.P No.698-B/2022.

Khushdil Khan & others

Versus.

Government of Khyber Pakhtunkhwa through Inspector General of Police and others.

JUDGMENT

Date of hearing: 11.11.2025.

For petitioners: Mr. Inam Ullah Niazi, Advocate.

For respondent(s) Mr. Shehzada Irfan Zia, Advocate for respondent No.4.

Respondent No.5 Sajid Khan S.H.O in person.

ABDUL FAYAZ...J- Through the instant petition, the petitioners, Khushdil Khan and Shahid Khan, have invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973. They pray that, upon acceptance of this writ petition, this Court may be pleased to set aside the order dated 27.10.2022 passed by the learned Additional Sessions Judge-II / Justice of Peace, Bannu, and further direct respondents No.1 to 5 not to register an FIR against them. They have also sought any other relief deemed appropriate in the circumstances.

2. Briefly stated, the facts of the case are that respondent No.6, namely Inayat Ullah Khan, moved an application under Section 22-A (6) Cr.P.C. before the learned ASJ-II/Justice of Peace, Bannu, seeking direction for registration of a criminal case against the present petitioners. His grievance was that he

had been working as a driver in Saudi Arabia since 2013. In 2016, during his six-month leave in Pakistan, the petitioners who are his co-villagers approached him. Petitioner Khushdil Khan informed him that his brother Shahid Khan (petitioner No.2) was also working in Saudi Arabia and desired to send three leather jackets as a gift to his sponsor, one Faraj Fallah. He also told the respondent/complainant that on reaching to Saudi Arabia just handed over boarding pass to his brother Shahid Khan (petitioner No.2) and his sponsor would collect the said jackets from the airport. Upon reaching Riyadh, the respondent/complainant Inayatullah handed over his boarding pass to petitioner Shahid Khan without collecting the bag containing the jackets. Later that night, petitioner Shahid Khan allegedly informed him that his sponsor had been arrested by Riyadh police along with the bag of jackets. He further disclosed that, in connivance with petitioner Khushdil Khan, they had concealed narcotic tablets in the said jackets and that the material was recovered by airport authorities from the complainant's luggage. According to the complainant, petitioner Shahid offered him 40,000 Riyals to admit ownership of the contraband, which he refused. Consequently, the complainant was arrested, an FIR was registered against him in Saudi Arabia, and he was eventually convicted and sentenced to ten years' imprisonment.

However, due to his good conduct, he was granted general amnesty after four years and deported to Pakistan. Upon his return, he approached senior police officers seeking action against the petitioners, but failing redress, he filed the instant application under Section 22-A (6) Cr.P.C. before the Justice of the Peace.

3. The learned Justice of the Peace, after calling comments from the SHO (respondent No.1) and DSP Circle (respondent No.2), allowed the application under Section 22-A (6) Cr.P.C. and directed registration of an FIR against the petitioners. Aggrieved thereby, the petitioners have approached this Court.

Arguments heard and record perused.

4. Before examining the merits of the case, it is appropriate to briefly outline the historical background of the office of the Justice of Peace. Originating in England, the role initially emerged from ancient "conservators of the peace," whose functions evolved over centuries into judicial powers exercised by Justices of the Peace. Although the system later expanded through various statutes, including the Justices of the Peace Acts and the Administration of Justice Acts, the essential function remained the preservation of peace and the exercise of limited judicial authority. During British rule in the Indo-Pak subcontinent, the office of Justice of Peace was

introduced but never acquired substantial judicial jurisdiction. Its primary purpose remained assisting the police in maintaining peace and reporting breaches thereof. In Pakistan, the scope of this office was expanded through the Criminal Procedure (Third Amendment) Ordinance, 2002, particularly by insertion of Section 22-A (6) Cr.P.C., empowering Ex-officio Justices of Peace to entertain complaints regarding non-registration of FIRs, transfer of investigation, and police excess or neglect. The legislative intent was to provide an accessible district-level forum for redressal of grievances instead of invoking the extraordinary jurisdiction of the High Court. However, this jurisdiction is discretionary. While Section 154 Cr.P.C. mandates the police to register information of cognizable offences (“shall”), Section 22-A (6) uses the term “may,” indicating that the Justice of Peace must apply judicial mind and may issue directions only where circumstances justify such intervention. The Hon’ble Supreme Court, in *Younas Abbas v. Additional Sessions Judge* (PLD 2016 SC 581), has categorically held that proceedings under Section 22-A(6) are quasi-judicial; therefore, the Justice of Peace must examine the record, hear the parties, apply judicial discretion, and cannot act mechanically. Importantly, no order for registration of an FIR may be passed without affording the person concerned an opportunity of hearing, as doing so

would amount to condemning a party unheard. It is further observed that aggrieved often bypass the police hierarchy and approach the Justice of Peace directly. This practice is contrary to law. Aggrieved persons must first approach the competent police authorities such as the SHO, DPO, RPO, or CCPO. Only upon failure of the police hierarchy to redress the grievances of the aggrieved persons), thereafter they may approached the Justice of Peace, who shall then exercise his quasi-judicial powers after providing due notice and hearing.

5. Coming to the merits of the case, the comments submitted by respondents No.1 and 2 the local police do not support the allegations levelled by the complainant. The official respondents have categorically stated that although certain police officials were deputed to keep surveillance on the petitioners, however, no material whatsoever was discovered to connect them with narcotics trafficking or any other unlawful activity. It is correct that some documents, such as a copy of the Al-Khair Jail Card from Riyadh, Saudi Arabia, and the passport of respondent/complainant, are available on the record. However, there is nothing on file to show that any conviction suffered by the complainant was attributable to the actions of the petitioners. Conversely, the record indicates that if any offence was committed abroad, it was committed by the complainant himself. No material has

been produced showing that the petitioners were named, implicated, or otherwise connected with the alleged act of trafficking. It is also noteworthy that the learned Justice of Peace observed that the petitioner had earlier filed a complaint against petitioners (the then respondent's No. 3 and 4) before the RPO Bannu Division which was forwarded to the S.H.O., Police Station Haved, who then entrusted it to IHC Abdur Rehman for inquiry, however, the respondent/complainant did not disclose this fact in his petition, instead he only stated that on 27-08-2022 he visited Police Station Haved to lodge an FIR against the petitioners and submitted a complaint to respondent No.1, the S.H.O. of that police station. Furthermore, in his petition under Section 22-A(6) Cr.P.C., the respondent/complainant arrayed the DSP Circle Haved as respondent No.2, however, neither the petition nor the entire case file reflects any allegation explaining what illegality or misconduct was committed by the DSP to justify his inclusion as a respondent. The accusations, therefore, rest entirely upon verbal assertions unsupported by any documentary or corroborative evidence. The learned Justice of Peace also relied upon an observation that, according to an inquiry report allegedly conducted by one Abdur Rehman, IHC, the petitioners were "notorious smugglers" and "influential persons." This Court has carefully perused the entire file and

finds no such material on record to substantiate that the petitioners are involved in narcotics smuggling. Even assuming for the sake of argument that the petitioners have a questionable background, there remains no nexus between them and the present allegations, as the complainant has failed to establish that the alleged occurrence was committed by them. In these circumstances, when even the local police expressed their inability to substantiate the complainant's accusations, the learned Justice of Peace was not justified in directing the registration of an FIR against the petitioners. The impugned order dated 27.10.2022, therefore, does not conform to the settled principles governing the exercise of jurisdiction under Sections 22-A (6) and 22-B of the Code of Criminal Procedure.

6. For the reasons recorded hereinabove, this writ petition is allowed. The impugned order dated 27.10.2022, passed by the learned Justice of Peace, is hereby set aside. Order accordingly.

Announced.

11-11-2025

Sher Qadullah/steno

SCANNED

03 DEC 2025

Khalid Khan

(D.B) Hon'ble Mr. Justice Muhammad Tariq Afridi &
Hon'ble Mr. Justice Abdul Fayaz.

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