

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Justice Qazi Faez Isa, CJ
Justice Amin-ud-Din Khan
Justice Athar Minallah

Criminal Petition No.149-P of 2023

*(Against the order dated 18 September
2023 passed by Peshawar High Court,
Peshawar in Cr.Misc.BA No.3366-P/2023)*

Javid Khan

....Petitioner

Versus

Arshid Khan and another

....Respondents

For the petitioner: Mr. Shabbir Hussain Gigyani, ASC.
(through video link from Peshawar)

For the respondent No.1: In-person.

For the State: Mr. Altaf Khan, Addl. A.G. KPK alongwith
Sikandar Shah, DSP and Islam Shah, I.O.

Date of Hearing: 15 November 2023

ORDER

Qazi Faez Isa, CJ. Notice was issued on 25 October 2023 to the respondents. The complainant, father of the deceased, and learned Additional Advocate General, Khyber Pakhtunkhwa (**'AAG'**) together with Islam Shah, Investigation Officer and Sikandar Shah, DSP Investigation, are in attendance. The learned AAG referred to the Deputy Superintendent of Police as *'DSP sahib'*. It is about time that the practice of adding the word *sahib* with one's job title is discontinued, as it unnecessarily elevates the status of public servants, which may instil in them delusions of grandeur and a perception of unaccountability, which is unacceptable since it is against the interests of the public whom they are meant to serve.

2. Learned counsel for the petitioner states that it was reported to the police on 5 August 2022 that Hamza aged about 9/10 years was missing. On 8 August 2022 after the recovery of the body of Hamza the FIR was registered wherein the petitioner was nominated, however, he was not mentioned when it was first reported to the police that Hamza was missing and that he was last seen in the presence of the petitioner. Learned counsel states that statements under section 161 of the Code of Criminal Procedure, 1898 (**'the Code'**) of two relatives of the deceased

were recorded which stated that they had last seen Hamza with the petitioner, but this does not stand to reason because they would have not permitted a young boy to be taken with an adult and not have informed the boy's father.

3. We enquired from the learned AAG and the police officers in attendance about the investigation of the case and it transpired that the police report (*challan*) had only relied upon the said two statements. It is most unfortunate that a young boy died but proper investigation did not take place to ascertain what had happened let alone who was responsible. This is a classic example of an incompetently handled investigation.

4. A practice has also developed whereby despite prior notice to the State preparation of the case is done before the Court, rendering this Court into an office of the prosecution. Rather than attending to the matter with the seriousness that it deserves two police officers, who are investigating the crime travelled from Peshawar to bring documents which could have been e-mailed, faxed or sent by Whatsapp, and then the relevant documents could have been filed, which would have been useful in determining the outcome of this bail application.

5. A case of further enquiry is made out and the petitioner is admitted to bail in FIR No.631, registered at Police Station Mathra, Peshawar, on 8 August 2022 subject to furnishing bail bond in the sum of one hundred thousand rupees with one surety in the like amount to the satisfaction of the Trial Court by converting this petition and allowing it in the said terms.

6. Copy of this order be sent to the Inspector General of Police, to the Secretary Home Department and to the Advocate-General, Kyber Pakhtunkhwa.

Chief Justice

Judge

Islamabad
15 November 2023.
(Umair)

Judge

Approved for reporting