

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

Cr.Misc.BA No.2059-P/2015

Date of hearing: _____

Petitioner (s) : _____

Respondent (s) : _____

ORDER

ASSADULLAH KHAN CHAMMKANI, J. Being

unsuccessful before the two courts below to get the concession of post arrest bail, petitioner Muhammad Suleman alias Dagai, through this further petition seeks the same concession from this court in case FIR No.581 dated 21.09.2015, registered under section 376 PPC, in Police Station Pabbi, wherein he is charged by Mst. Maimoona aged 15/16 years for committing her rape in the Hujra of Saif ul Islam situated in village Dargai.

2. Arguments heard and record perused.

3. No doubt, there is delay of a month in lodging report but the same has been well explained by the

victim girl in her report that soon after her release, she rushed to her house and narrated the entire episode to her sister Mst. Saira, who approached the family members of the petitioner to complain them and to settle matter, but they threatened her. However, both the sisters due to family honour, dignity and shame kept mum to disclose this untoward incident before their parents. Keeping in view the norms, customs and traditions of our society, particularly in pathan society, in such like unfortunate incidents, people do think hundred times before lodging report so as to avoid disgrace and family honour and tries to find out the midway, which cause delay, therefore, delay in such like offences would be immaterial. The petitioner has been charged directly by the victim in her report and according to her medical report her hymen has been found torn. On the face of record, victim is 15 years old girl and it cannot be believed that she would put her career, personal respect and family honour at stake by fabricating a false story so as to stigmatize herself for the everlasting life in absence of any motive. On tentative assessment

reasonable grounds exist which prima facie connects the petitioner with the commission of offence, which is heinous, shameful affecting the entire society and its punishment falls within the Prohibitory Clause of S.497 Cr.P.C., therefore, I am not inclined to exercise the discretion of bail in favour of the petitioner.

4. Resultantly, this petition being meritless stands dismissed. However, prosecution is directed to submit challan against the petitioner within a fortnight and the learned Trial Court shall conclude the trial within a period of three months from the date of receipt of the challan. The learned Trial Court shall avoid unnecessary adjournments except on reasonable and genuine grounds, period of which shall also not exceed a week. In case of failure to conclude the trial within the specified period, if delay was not on the part of the petitioner or anybody acting on his behalf, he would be at liberty to file fresh bail petition before the learned Trial Court, which shall be disposed of independently. Office is directed to send the record to the quarter concerned within two days, positively.

Announced
04.12.2015

J U D G E