

*Judgment Sheet*

**IN THE PESHAWAR HIGH COURT,  
PESHAWAR**  
*(Judicial Department)*

***BA No.946-P/2015.***

**JUDGMENT**

Date of hearing. 16.11.2015.

Petitioner (Noor-ul-Qamar) By Mr. Ishtiaq Ibrahim, Advocate.

State: By Mr. Mujahid Ali Khan, AAG.

Complainant. By Mr. Ijaz Muhammad, Advocate.

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**QAISER RASHID KHAN, J.** The petitioner seeks bail in case FIR No. 153 dated 20.7.2014 registered under sections 302/324/452/34 PPC, Police Station Azakhel District Nowshera on medical grounds as earlier his bail petition was dismissed on merits by this court on 1.12.2014.

Arguments heard and record perused.

2. On 16.7.2015 when this petition came up for hearing the learned counsel for the petitioner placed reliance on the report dated 29.4.2015 of the Standing Medical Board whereby some cardiac problem was diagnosed but since none from among the doctors who

constituted the medical board was a cardiologist, therefore, the Director General Health Services Government of Khyber Pakhtunkhwa was directed to constitute another Standing Medical Board comprising of a cardiologist as well for the examination of the petitioner and to submit its report regarding the gravity of the ailment that the petitioner is suffering from. On 01.9.2015 the Standing Medical Board submitted its report but on 11.9.2015 when the case was again taken up for hearing, the learned counsel for the complainant expressed his reservations regarding the said report. Finally on 21.9.2015 when this petition again came up for hearing keeping in view the reservations of the learned counsel for the respondent regarding the report, therefore, in the interest of justice a fresh Standing Medical Board was ordered to be constituted by the Director General Health Services KPK Peshawar comprising of a senior cardiologist of repute. Now that the report of the Standing Medical Board dated 14.10.2015 is before the court wherein the cardiac

problem of the accused-petitioner has been discussed in detail and finally it has been opined as under:

“Such patient with no improvement in his cardiac status over these years cannot be treated in close confinement such as lock-up or jail. He needs further evaluation of coronary status which may necessitate another stenting or CABG surgery. He needs to be in easy access to cardiac care facilities as he is prone to re-infarction, fatal arrhythmia or sudden cardiac death. He needs lifelong supervised cardiac treatment so he is a high cardiac risk patient which cannot be taken care of in jail or confinement.”

Keeping in view the report of the Standing Medical Board according to which treatment of the petitioner is impossible within the confines of the jail, therefore, placing reliance on the dicta as reported in **1979 SCMR 320 “*Haji Mir Aftab vs. The State*”, 1998 SCMR 1065 “*Zakhim Khan Masood vs. The State*” 2000 SCMR 107 “*Mian Manzoor Ahmad Watto vs. The State*”, PLD 2002 SC 546 “*Ch. Zulfiqar Ali vs. The State*” and 2004 SCMR 15 “*Firdous Paul vs. The State*” this application is allowed and the petitioner is granted bail on medical grounds provided he furnishes**

bail bonds in the sum of Rs.300000/- with two sureties,  
each in the like amount, to the satisfaction of the trial  
court concerned which shall ensure that the sureties are  
local, reliable and men of means.

***Announced:***  
**16.11.2015**

***J U D G E***

***\*Qaseem\****