

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

Cr.Misc.BA No.2004-P/2015

Date of hearing: _____

Petitioner (s) : _____

Respondent (s) : _____

JUDGMENT

ASSADULLAH KHAN CHAMMKANI, J.- Petitioner

Asghar, seeks bail in case FIR No.479 dated 09.06.2015, registered under sections 399/400/401 PPC, S.15 Khyber Pakhtunkhwa Arms Act, 2013 and 5 Explosive Substance Act, in Police Station Badh Ber Peshawar.

2. The prosecution case is that on 09.06.2015 Shah Wali Khan ASI, on receipt of spy information qua presence of some persons near “Baba Sahib Qabristan Sheikhan” for the purpose of dacoity/ snatching money from the passersby, he alongwith other police officials rushed to there and apprehend the petitioner and his companion Mukhtiar. On search of the petitioner, a live hand grenade was allegedly recovered from his possession, hence, this case.

3. Arguments heard and record perused.

4. It appears from the record that petitioner is the resident of the same area i.e. village Sheikhan wherefrom he has been arrested. Section 399 deals with preparation for committing dacoity while sections 400 and 401 PPC, deal with the persons belonging to a gang of dacoits and thieves. Not an iota of evidence is on the record to show previous involvement of the petitioner in any case of dacoity or theft, therefore, applicability of the above sections of law is yet to be determined during trial. Punishment of S.15 Khyber Pakhtunkhwa Arms Act does not fall within the Restrictive limb of S.497 Cr.P.C. while in absence of any previous history of the petitioner in any case of terrorism or other anti State activities, it is yet to be proved by the prosecution that the hand grenade in possession of the petitioner was for some subversive purpose.

5. The above discussed circumstances, makes the case of the petitioner arguable for the purpose of bail within the meaning of sub-section 2 of S.497 Cr.P.C., therefore, he is entitled to concession of bail. Accordingly, this petition is allowed. Accused/petitioner is admitted to bail, provided he furnishes bail bonds to the tune of Rs.3,00,000/- with two local, reliable and resourceful

sureties each in the like amount to the satisfaction of
learned Illaqa Judicial Magistrate/MOD concerned.

Announced
12.11.2015

J U D G E

7. For what has been discussed above, Suo motu notice given to accused Shakir stands withdrawn. He is admitted to bail on already existing bail bonds, on merits. Since this court has already directed expeditious conclusion of trial while dealing with the bail petition of co-accused Farman, therefore, office is directed to send the record to the quarter concerned within two days, positively.

announced:
19.10.2015

J U D G E

