

**IN THE PESHAWAR HIGH COURT,
PESHAWAR**

(Judicial Department)

Cr.MBA No. 984-P/2020.

Bawar Khan Vs The State.

JUDGMENT

Date of hearing. 06.05.2020.

Petitioner(s) by: Syed Abdul Fayaz Advocate.

**Complainant by: Mr. Shabbir Hussain Gigyani
Advocate.**

State by: Nemo.

IKRAMULLAH KHAN, J:- Through the instant bail petition, petitioner Bawar Khan seeks his release on bail in case FIR No. 1318 dated 10.12.2018, registered under Sections 302/148/149/427/109 PPC, at Police Station Jabbar, District Mardan, on fresh ground of medical and infirmity till final decision of the case.

2. As per prosecution case, petitioner alongwith co-accused Kishwar, Jamshed and Ali Bahadar were charged by complainant Akhtar Hameed for effective firing at his father Noor Hameed and brother Khalid Hameed, who were on motorcycle ahead of complainant and PW. Tariq Hameed, coming to their village, as a result of which they were hit and

died on the spot. Consequently, on the report of complainant present case was registered against all the accused.

3. I have heard learned counsel for the parties and gone through the available record.

4. Perusal of record reveals that the prayer of petitioner for bail on merit has already been dismissed up to this Court who has now approached this Court on fresh ground of medical and infirmity for his release on bail.

5. So far as the ground of infirmity taken by learned defence counsel is concerned, admittedly this ground was taken by petitioner in his previous bail petition (Cr.MBA No.1491-P/2019) before this Court, which was dismissed by this Court vide order dated 24.6.2019, so the petitioner cannot take this plea again which has already been refused by this Court.

6. Now coming to the other ground (medical) on which the petitioner has prayed for his release on bail, as per record, on the application of petitioner submitted before the learned trial Court, he was referred to the Standing Medical Board, who after examination of the petitioner, opined that the treatment of petitioner can be carried out in the jail premises, so when there is no threat to his life in jail and proper

treatment is available to him in jail premises, then he cannot be granted bail on medical ground. Moreover, the petitioner has availed all the grounds including merit, medical and infirmity, which were declined upto this Court therefore, no good fresh ground is available to the petitioner which could be made a ground for his release on bail. Besides, trial of petitioner has commenced and numerous witnesses have been examined while a few witnesses are yet to be examined but the case is lingering on due to numerous bail applications submitted by petitioner and co-accused in different Courts on one pretext or other, which caused delay in conclusion of trial. Consequently, this bail petition on the plea of infirmity and medical ground is dismissed. However, the learned trial Court is directed to conclude the trial expeditiously by treating it as a target case on day to day basis and no unnecessary adjournment should be granted. The prosecution/ complainant is directed to produce its remaining witnesses and petitioner is also directed to ensure attendance of his counsel before the learned trial Court for cross examination of the witnesses so that the trial could be concluded expeditiously.

Announced:
06.05.2020.

"A.Qayum PA" (SB)



JUDGE

Hon'ble Mr. Justice Ikramullah Khan