

**JUDGMENT SHEET**  
**IN THE PESHAWAR HIGH COURT,**  
**MINGORA BENCH (DAR-UL-QAZA), SWAT**  
**(Judicial Department)**

**1. Cr.M B.A No. 966-M/2022**

(Amar Ullah and another v. The State and another)

**2. Cr.M B.A No. 968-M/2022**

(Suhrab Khan v. The State and another)

Present: M/S Muhammad Hamayun and Muhammad Shah Zubair, Advocates for the petitioners.

Mr. Saeed Ahmad, Asst:A.G for the State.

Mr. Aziz Ahmad Hashmi, Advocate for the complainant.

**Date of hearing: 21.12.2022**

**JUDGMENT**

**Dr. Khurshid Iqbal, J.-**

1. Through this single order, I intend to dispose of instant bail petition as well as the connected B.A No. 968-M/2022, as both have arisen out of one and the same FIR.

2. Facts shortly are that on 23.11.2022, the complainant Usman Ullah reported to the local police that during the night between 22-23/11/2022, at unknown time, his three shops, situated in Pataw Bazaar, within the criminal jurisdiction of Police Station Sahib Abad, District Dir Upper, were put on fire. Resultantly, the goods (shoes and cloths) lying inside the shops were completely burnt. He stated that he "firmly believes" that the offence in hand has been



committed by Nazim (Nizam Ullah), Amir (Amar Ullah) and Suhrab Khan, residents of Pataw of Tehsil Wari, District Dir Upper, the petitioners/ accused.

3. I have heard arguments of learned counsel for the parties and the learned Assistant Advocate General, for the State and perused the record.

4. No doubt, there could be no eye witness of the commission of the offence in hand. Needless to say, the offence was reported to have been committed during the night between 22 and 23.11.2022 at unknown time. Despite this, the contention of the complainant that he firmly believes that the petitioners/ accused have committed the offence, is not prima facie supported by any source of such information. In a murder case, titled as Mst. Nooran Bibi alias Bano v.

The State and another reported as 2014 P Cr. LJ 237 [Lahore], it has been held that involvement of an accused person for the commission of an offence by a complainant on the basis of "firm belief" could not be taken as an admissible piece of evidence. The reason the learned Court has mentioned is that such a statement is a speculation about the involvement of the accused.

5. The record further shows that statement of the Chowkidar of the market has not been recorded. Moreover, there is nothing on the record to show that structures of the shops have been damaged as only the goods lying inside the shops were stated to have been burnt. Reliance is placed on Noor Muhammad v. The State (1993 P Cr. LJ 2522). Yet another relevant aspect is the vicarious liability of the petitioners/accused in the circumstances of the case. Such liability is to be determined at the trial stage as to how they conspired for the commission of the offence in hand. This aspect is further strengthened from the statements of two persons, namely, Naseerullah and Badshah Islam, which show that the petitioner/accused Suhrab Khan purchased some petrol for using it in a chainsaw to cut certain trees. These statements create a scope of further inquiry.

6. In view of the above, the petitioners/accused are entitled to the concession of bail. Resultantly, the instant bail petition as well as the connected B.A No. 968-M/2022 are allowed. The petitioners/accused be released on bail, provided they furnish bail bonds in the sum of Rs. 100,000/- (one hundred thousand) each with two sureties each in the like amount to the satisfaction of the learned trial

Court, who shall ensure that the sureties are local, reliable and men of means. The observations recorded hereinabove are purely tentative in nature and should, in no way, prejudice an independent mind of the learned trial Court during the course of trial.

7. These are the reasons of my short orders of even date.

Announced  
Dt: 21.12.2022

  
JUDGE

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