

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

*(Judicial Department)*

Cr.M.BA. No.390-M/2015.

**JUDGMENT**

Date of hearing: **26.10.2015.**

Petitioners: (Muhammad Irshad and 1 other) by  
Mr. Abdul Halim Naimatkhel, Advocate

Respondents: (State etc) by  
Mr. Faheem Naeem Advocate, State  
counsel.

**HAIDER ALI KHAN, J.-** Through the instant petition, the petitioners seek their release on bail in case FIR No.146 dated 17.4.2015 under sections 457/380/411 PPC, 14 OAPO registered against them at Police Station Kabal, District Swat.

2. As per contents of the FIR, allegations against the accused/ petitioners are that they broke opened the locks of Sharafat Mobile Zone and Amaraat Super Store situated at Kala Kalay, Swat, and stole away various objects from the said shops which later on were recovered on their pointation.

3. Arguments heard and record perused.
4. In light of arguments, perusal of the record would reveal that prior to the instant petition the accused/petitioners and two other co-accused had already moved bail petition bearing Cr.M B.A No. 198-M/2015 which was dismissed to the extent of the present accused/petitioners on 29.6.2015. The petitioners have moved the instant petition on the ground that the complainant has effected compromise with them, hence, they be released on bail.
5. No doubt, compromise in non compoundable offences can be considered a good ground for the purpose of bail, however, heinousness of the offences and peculiar facts and circumstances of the present case cannot be ignored. Moreso, the complainant in his affidavit and compromise deed has stated that:

اب من محلف نے بواسطت مشران علاقہ اپنی  
تسلی کر لی ہے اس لیے ملزمان بالا کو جرم بالا  
سے فی سبیل اللہ معاف کر کے بخش دیا ہے"

In these circumstances the Court cannot turn its ears deaf on the interests of the society and granting or refusing bail by the Courts must reflect perfect balance between the conflicting interests viz, sanctity of individual's liberty and the interests of the society as visualized in case reported as **2014 P.Cr.LJ (Balochistan) 178**. Therefore, at this stage the petitioners are not entitled to the concession of bail.

6. In view of what has been discussed above, this bail petition is dismissed. The trial Court is directed to conclude the trial within a period of four months positively, however, if the trial Court fails to conclude the trial within the stipulated period in that eventuality the petitioners shall be deemed to have been released on bail provided they furnish bail bonds in the sum of Rs:100,000/- (rupees one hundred thousand) each with two sureties each in the like amount to the satisfaction of the trial Court.

Needless to mention that the learned trial Court shall confirm that the sureties are local, reliable and men of means. Moreover, any delay at the expense of the accused or their counsel shall not be counted towards the above referred timeline of four months.

The instant bail petition is disposed of in the above terms.

Announced.  
Dt: 26.10.2015.

**JUDGE**