

Judgment Sheet

PESHAWAR HIGH COURT, PESHAWAR.  
(JUDICIAL DEPARTMENT)

Cr.M/BA No.148-P/2022 with  
Cr.M.No.44-P/2022.

JUDGMENT

Date of hearing --- 28/03/2022.  
Petitioner by --- M/s Noman-ul-Haq Kakakhel &  
Dr.Amir Ajam Khattak, Advocates.  
State by --- Mr.Gul Daraz Khan, Advocate.  
Complainant by --- Syed Abdul Fayyaz, Advocate.

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LAL JAN KHATTAK, J:- Petitioner Nasir

Abbas Noori has applied to this court for his release on bail in case FIR No.1036 dated 26.10.2021 under sections 302/324/109/420/468/471/34 PPC registered against him at Police Station, City Hangu wherein he is charged for committing the *Qatl-i-Amd* of one Syed Ali Murtaza Hussain.

2. Arguments heard and record gone through.

3. No doubt, in the first information report a specific role of firing at the deceased has been attributed to the petitioner but important aspect of the case is that the petitioner has taken the plea of alibi according to which on the date and time of the occurrence he was performing his duties as ASI at police station

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City Kohat. It is noteworthy that on 01.11.2011 i.e. within a week of his nomination as accused in the case petitioner moved an application to S.P (Investigation), Hangu pleading his innocence on which an inquiry was conducted and according to the findings of the inquiry officer petitioner is not involved in the murder of Syed Ali Murtaza Hussain. It is also worth to mention that as per record annexed with the petition, petitioner had left his police station i.e. the place of his posting for *gasht* at 07:10 AM on the day of occurrence vide daily diary No.54 and had returned there at 03:00 PM vide daily diary No.16. It is further worth to add that the Inquiry Officer had recorded statements of the police personnel who had been with the petitioner in the *gasht* at the relevant time.



4. True that the plea of alibi is normally left for the trial court to judge it but at the same time if it is taken at the earliest and is verified one then for the purpose of bail it can be pressed into service and cannot out rightly be rejected. (1997 SCMR 1829).

5. Tentative assessment of the available record would show that the petitioner has succeeded in making out a case arguable for

the purpose of his release on bail as his involvement therein needs further probe in terms of subsection (2) of section 497 Cr.P.C.

6. For what has been discussed above, this petition is allowed and the petitioner is directed to be released on bail provided he furnishes bail bonds in the sum of Rs.100,000/- (one lac) with two sureties each in the like amount to the satisfaction of Illaqa/Judicial Magistrate, who shall ensure that the sureties are local, reliable and men of means.

Announced.  
Dt.28/03/2022.

  
JUDGE

HON'BLE MR. JUSTICE LAL JAN KHATTAK.

(A.K.KHAN Court Secretary)