

Judgment Sheet
IN THE PESHAWAR HIGH COURT,
PESHAWAR
(Judicial Department)

BA No.1691-P/2015.

JUDGMENT

Date of hearing. 19.10.2015.

Petitioner (Asmat Ali alias Mattay) By Mr. Ishtiaq Ibrahim, Advocate.

State: By Syed Sikandar Hayat Shah, AAG.

Complainant. By Mr. Imtiaz-ur-Rehman, Advocate.

QAISER RASHID KHAN, J. After having been refused bail by the learned Additional Sessions Judge Shabqadar vide order dated 14.9.2015 in case FIR No. 373 dated 11.7.2015 registered under sections 302/324/34/ 109 PPC, Police Station Shabqadar District Charsadda, the instant application has been moved for the same very relief.

2. The allegations against the accused-petitioner and his absconding co-accused, Shaukat, are that at their instance and abetment the principal accused namely, Wilayat and Gohar, had committed the murder of the

father of the complainant with fire arms, hence the FIR
ibid.

3. Learned counsel for the petitioner argued that the accused-petitioner is innocent and has been falsely implicated in the case; that no independent ocular or circumstantial evidence exists to connect the accused-petitioner with the commission of the offence; that the accused-petitioner was not present at the spot at the time of alleged firing by the principal accused; that except the bare allegations in the FIR nothing is available on the record to connect the accused-petitioner with the commission of offence, therefore, keeping in view the facts and circumstances, the case of the accused-petitioner calls for further probe into the matter which thus entitles him to the grant of bail.

4. The learned counsel for the complainant opposed the bail petition and contended that it was on account of blood feud that the principal accused had committed the murder of the father of complainant at the instance and abetment of the accused-petitioner and absconding co-

accused namely, Shaukat, and thus he is not entitled to the concession of bail.

5. The learned AAG in all fairness did not oppose the bail petition and stated that the available record indeed calls for further probe into the matter.

Arguments heard & available record perused.

6. As the record reveals, it was the complainant who reported about the murder of his father namely, Bakht Badshah, at the hands of Wilayat and Gohar sons of Malang with fire arms whereafter they decamped from the spot. However, in his report he also pointed an accusing finger at the accused-petitioner and absconding co-accused Shaukat for having abetted the offence and stated the motive to be previous blood feud. Whether the accused-petitioner had indeed connived and colluded with his absconding co-accused namely, Shaukat, who happens to be his brother and thus abetted the murder of the father of the complainant at the hands of his two brothers, is not evident from the present record except through the allegations in the F.I.R. It is still a wild

goose chase for the investigating agency to ascertain the involvement of the accused-petitioner having abetted the offence and that is how the situation calls for further probe into the matter, the beneficiary of which could be thus none other but the accused-petitioner. As such I hold the accused-petitioner entitled to the concession of bail.

7. Accordingly, this bail petition is allowed and the accused-petitioner is granted bail provided he furnishes bail bonds in the sum of Rs.100000/- (one lac) with two sureties, each in the like amount, to the satisfaction of the learned trial court concerned which shall ensure that the sureties are local, reliable and men of means.

8. Before parting with this order, it is directed that any observations recorded in this order, being purely tentative in nature, should in no way prejudice the proceedings before the learned trial Court where the case be decided on its own merits after recording evidence.

Announced:
19.10.2015

J U D G E

****Qaseem****