

IN THE PESHAWAR HIGH COURT,
PESHAWAR
(Judicial Department)

Cr.Misc.BA No.2235-P/2015

Date of hearing: _____

Petitioner (s) : _____

Respondent (s) : _____

ORDER

ASSADULLAH KHAN CHAMMKANI, J.- Petitioner

Sajad, seeks bail in case FIR No.330 dated 23.04.2013, registered under sections 17 (3) Offences Against Property (Enforcement of Hudood), Ordinance, 1979 and S.342 PPC, in Police Station Sher Garh.

2. According to report of complainant Asghar Khan on the fateful day he alongwith Bakhti Rawan, carrying huge foreign currency in a motorcar to Islamabad when reached near a mosque of Nazeer Khan Koroona, two motorcars suddenly intercepted them. The persons sitting in the said cars caught hold of them at gun point, tied their eyes, thrashed them and forcibly snatched huge foreign currency worth Rs.3,70,00,000/- from them and then left them near a sugarcane fields; that he can identify the culprits if brought before him.

3. Arguments heard and record perused.

4. Unknown culprits are charged in the FIR by complainant without disclosing their features and description. Petitioner alongwith co-accused, has been named by Afsar Ali, the owner of the alleged snatched currency and PW Bakhti Rawan, in their statements under section 164 Cr.P.C. on 24.04.2013, recorded after a delay of more than a month from the day of incident without disclosing the source of their satisfaction about complicity of the petitioner in the commission of offence. No identification parade of the petitioner has been conducted either through complainant or PW Bakhti Rawan. Accused and complainant as well as PW Bakhti Rawan being unknown to each other prior to the incident, identification parade was essential, more particularly when the complainant in his report has specifically stated that he can recognize the accused. Record is silent as to why identification test of the accused through the eyewitness has not been held. Moreso, not a single penny of the alleged snatched currency has been recovered either from direct or indirect possession of the petitioner or on his pointation. He has also not confessed his guilt before the competent Court of law. On tentative assessment of the material on record and discussed above, participation of the petitioner in the commission of offence requires further probe into his guilt.

Besides, co-accused whose case is on equal footing with that of the petitioner have already been granted bail by the learned lower court, against whom, no bail cancellation application has been filed, therefore, on the principle of consistency the petitioner is also entitled to concession of bail.

5. Accordingly, this petition is allowed. Accused/petitioner is admitted to bail provided he furnishes bail bonds to the tune of Rs.3,00,000/- with two local, reliable and resourceful sureties each in the like amount to the satisfaction of learned Illaqa Judicial Magistrate/ MOD concerned.

6. These are reasons of my short order of even date.

Announced
25.01.2016.

J U D G E