

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
PESHAWAR

(Judicial Department)

Cr.M.B.A.No.2452-P of 2022.

Date of hearing: 30.09.2022.

Mr. Shaiber Khan, advocate for the petitioner.

Mr. Muhammad Inam Yousafzai, AAG for the State.

Nemo for the respondent (despite service).

JUDGMENT

LAL JAN KHATTAK, J.- Petitioner Noor

Haider has applied to this court for his release on bail in case FIR No.241 dated 02.07.2021 under Sections 302/324/34 PPC/512 Cr.P.C. registered against him at Police Station Akbarpura, Nowshera.

2. On 02.07.2021, injured Kausar Alam alias Gujar, now accused in the case, reported to the local police at casualty of Civil Hospital, Pabbi to the effect that he and deceased Iqbal were proceeding to their homes and when they reached at the place of occurrence there petitioner Noor Haider, Afaq, Fayaz and Zarwali were found present armed with weapons, who on seeing them, started firing at them with their respective weapons with which his companion Iqbal

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was hit and died on the spot whereas with the fire shots one passerby Asif too was hit and got injured. On arrest as accused in the case, petitioner applied for his release on bail, which was declined to him by the learned trial court, hence, this petition.

3. Despite service of father of the deceased none appeared on his behalf whereas arguments of learned counsel for the petitioner as well as of the learned AAG were heard and case record gone through.

4. Perusal of the case record would show that though the then injured, namely, Kausar Alam alias Gujar has alleged in the FIR that the present petitioner and three others had fired at him and deceased Iqbal but subsequently on 16.07.2021 i.e. after a period of 14 days father of deceased, namely, Zameer Gul recorded his 164 Cr.P.C. statement wherein he also charged the then complainant for his abetting the offence on which he was arrayed as accused in the case, who on his arrest sought his release on bail which was granted to him by this court.

5. It reveals from the record that the occurrence had taken place at 2100 hours

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and apparently no source of light has been shown in the site plan. So identification of the petitioner as firer has put a question mark regarding his participation in the case which fact has brought his case within the ambit of further enquiry. Another important aspect of the case is that co-accused Fayaz and Zarwali, to whom similar role like that of the petitioner was attributed, have been released on bail by the learned trial court albeit on the basis of compromise. Though release on bail on the strength of compromise effected with some co-accused *per se* would not be a point for another accused to his release on bail with whom no compromise has been made but in case role of both the accused is identical then grant of bail to one accused even on the basis of compromise can be considered for the other accused as in such like situation it will be determined after recording evidence that who out of the two sets of accused had played effective role in commission of the offence.



6. For what has been discussed above, this Court is of the view that the petitioner has made out a case for his release on bail,

therefore, this bail petition is allowed and it is directed that he be released on bail subject to his furnishing bail bonds in the sum of Rs.100,000/- with two sureties each in the like amount to the satisfaction of learned trial court.


JUDGE

Announced.

30.09.2022.

Sadiq Shah CS (SB) (Hon'ble Mr. Justice Lal Jan Khattak)