

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
BANNU BENCH
(Judicial Department)

Cr.MBA.No.28-B/2018

Ismail Khan alias Ismail ...Vs...The State and another

JUDGMENT

Date of hearing: **15.02.2018**

Appellant-petitioner: **By Anwar-ul-Haq, Advocate.**

Respondent: **State By Shahid Hameed Qureshi,**

Addl: AG.

SHAKEEL AHMAD, J.- Through this petition the petitioner Ismail Khan alias Ismail has sought post arrest bail in case FIR No.202 dated 09.6.2017 registered under Sections 302/34 PPC at Police Station Tajori, District Lakki Marwat.

2. It is, inter alia, argued by the learned counsel for the petitioner that the petitioner has falsely been implicated in the instant case; that the counter version vide FIR No.203 dated 09.6.2017 under Section 324/34 PPC has been recorded at Police Station Tajori, District Lakki Marwat against the complainant party, and it is yet to be determined that who is aggressor and who has been aggressed upon and who acted in self defence. In support of his contention he relied on the judgment of this Court

in Cr.MBA.No.273-B/2017 rendered in counter FIR No.203 dated 09.6.2017, wherein the accused Aurangzeb was granted bail merely on the ground that a counter version vide FIR No.202 dated 09.6.2017 under Sections 302/34 PPC was registered against the accused party, therefore, the petitioner is also entitled for bail.

3. On the other hand, the learned counsel appearing on behalf of the complainant argued that the petitioner has specifically been charged for committing murder of the brother of the complainant; that the post-mortem report supports the contention of the complainant; that the version recorded vide FIR No.203 cannot be termed as cross version of the occurrence, the same is false and concocted one, and cannot be given weight at this stage; that after commission of the offence the accused remained at large for quite sufficient time, therefore, he is not entitled to be released on bail.

4. The learned Addl: A.G. representing the State supported the contention of the learned counsel for the complainant.

5. Arguments heard and record perused.

6. Perusal of the record reveals that the petitioner has specifically been charged in a promptly lodged FIR for committing murder of the brother of the complainant by means of firearm. The version of the complainant, site

plan and post-mortem report, if placed in a juxtaposition, the same are consistent, inter alia. The post-mortem report of the deceased reflects that he had sustained single bullet injury on the back side of his head in occipital region and its exit wound on left side of front of face in maxillary region. After commission of offence the petitioner remained at large for a period of more than 05 months and was arrested on 16.11.2017.

7. Adverting to the cross version recorded in FIR No.203 dated 09.6.2017 registered under Sections 324/34 PPC at Police Station Tajori, District Lakki Marwat, the mere registration of cross version cannot be accepted as it is not sufficient for the grant of bail, particularly, when the genuineness of the cross version is yet to be established at trial stage. In this respect reference can well be made on the case reported in **2012 YLR 1761**.

8. Moreso, investigation in the case has been completed and the trial is likely to commence soon. The tentative assessment of the record suggests that on the face of it, there exists reasonable ground to believe that the petitioner has committed the offence which falls within the prohibition contained in Section 497 Cr.PC.

9. For what has been discussed above, there being no merit in the petition in hand, it is hereby dismissed. However, the prosecution is directed to submit

challan against the accused within a period of fortnight
and the learned trial Court is directed to conclude the trial
within a period of 04 months positively.

Announced.
Dt: 15.02.2018.

JUDGE