

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

Cr.Misc.BA No.1702-P/2015

Date of hearing: _____

Petitioner (s) : _____

Respondent (s) : _____

JUDGMENT

ASSADULLAH KHAN CHAMMKANI, J.- This common judgment shall dispose of the instant bail petition, filed by petitioners 1. Hakeem Khan, and 2. Seraj as well as connected Cr.Misc.BA No.1785-P/2015, filed by petitioner Mst. Shazia, as both are arising out of one and the same FIR No.305 dated 17.08.2015, registered under sections 302/109/34 PPC and S.15 Khyber Pakhtunkhwa Arms Act, 2013, wherein the petitioners are charged for committing the murder of Mst. Rihayat Bibi with firearms.

2. Arguments heard and record perused.

3. This untoward incident took place on 17.08.2015 at 11.00 hours, inside the house of the Mst. Rihayat Bibi deceased, situated in village Adizai. None of the petitioners is charged in the initial report. Neither complainant nor anybody else has come forward to

furnish the ocular account of the incident. Petitioners were nominated as accused by complainant Arab Khan in his statement recorded under section 164 Cr.P.C. on 03.09.2015, after a delay of about 16 days. The source of the basis of which he got satisfied qua complicity of the petitioners in the commission of offence, has not been disclosed by him. None of the petitioners has confessed their guilt before competent court of law. No incriminating evidence whatsoever is available at this stage to connect the petitioners with the commission of the offence. The authenticity and evidentiary value of a corroborative piece of evidence in the shape of recovery of 7 MM rifle as a crime weapon, allegedly recovered on the pointation of female petitioner Mst. Shazia on 04.09.2015, from the crime room, after a delay of about 17 days, despite visit of the said room by the I.O. on the very first day of the incident, is yet to be determined during trial in light of other circumstances of the case. On tentative assessment of the material available on record, reasonable grounds exist which make the case of the petitioners arguable for the purpose of bail. Besides, petitioner Mst. Shazia, as per her medical examination on 04.09.2015, was conceived of seven months, so on this ground too, as per the dictum laid down by the Hon'ble Supreme Court in case titled,

“Mst. Nusrat Vs the State” (1996 SCMR 973), she is entitled to be released on bail.

4. For the reasons discussed above, both the petitions are allowed. Accused/petitioners are admitted to bail, provided each one of them 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.

Announced
28.10.2015.

J U D G E

7. For what has been discussed above, Suo motu notice given to accused Shakir stands withdrawn. He is

admitted to bail on already existing bail bonds, on merits.
Since this court has already directed expeditious conclusion of trial while dealing with the bail petition of co-accused Farman, therefore, office is directed to send the record to the quarter concerned within two days, positively.

announced:
19.10.2015

J U D G E

