

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

Cr.Misc.BA No.1791-P/2015

Date of hearing: _____

Petitioner (s) : _____

Respondent (s) : _____

JUDGMENT

ASSADULLAH KHAN CHAMMKANI, J.- Petitioner

Nazir Ahmad, seeks bail in case FIR No.1137 dated 31.12.2013, registered under section 17 (3) Offences Against Property (Enforcement of Hudood) Ordinance, 1979, in Police Station Agha Mirjani Shah, Peshawar.

2. According to report of complainant Fazal Ahmad on 31.12.2013 at 10.00 hours, six persons, four muffled and two un-muffled, duly armed with pistols, introducing themselves to be police officials, entered his house, locked him alongwith other inmates of the house inside a room and took away Rs.11,00,000/- in cash, 15 tolas gold ornaments and their mobile sets. He disclosed the descriptions of the two un-muffled culprits in his report. Later on, on 17.03.2015 i.e. after one year and more than two months, complainant charged the present petitioner in his statement under section 164 Cr.P.C., for

the commission of offence at the instance alleged disclosure of co-accused Babar Said.

3. Arguments heard and record perused.

4. The petitioner has been charged after a long period of one year and two months. In his statement u/s 164 Cr.P.C., he disclosed that co-accused Babar Said was arrested from whose possession his snatched mobile was recovered; that accused Babar Said disclosed him that the recovered mobile was given to him by Nazir Ahmad (present petitioner), who has been now arrested in a dacoity case and is behind the bars at Kot Lakpat Jail Lahore; that accused Babar Said, showed photograph of said Nazir Ahmad to the complainant and he identified that it was accused Said Nazir, who committed theft in his house alongwith his other companions.

5. No recovery of the alleged stolen articles has been effected either from the direct or indirect possession of the petitioner or on his pointation. He has not confessed his guilt before the competent court of law. Except the above statement of complainant at the moment there is no incriminating evidence to connect the petitioner with the commission of offence. As regard identification parade of the petitioner, authenticity, credibility and admissibility of the same is yet to be determined during trial as it has been

conducted after the complainant had already seen the petitioner in photographs and in police custody. On tentative assessment of the material available on record, reasonable grounds exist which make the case of the petitioner arguable for the purpose of bail.

5. Resultantly, this petition is allowed. Accused/petitioner is admitted to bail provided he furnishes bail bonds in the sum 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
19.11.2015.

J U D G E