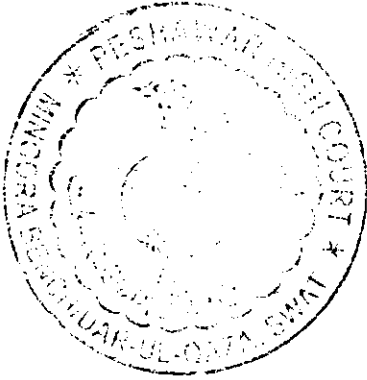


**BEFORE THE PESHAWAR HIGH COURT**  
**MINGORA BENCH / DARUL QAZA SWAT**

**Bail Application No. 584-M/2017**



*Irfan Ullah S/o Usman Ali R/o Rang Mohallah, Mingora, District Swat, presently confined in District Jail Timergara.*

*.....Accused / Petitioner*

**VERSES**

1. *The State through Additional Advocate General, Peshawar High Court Minogra Bench / Darul Qaza Swat.*
2. *Sohrab Khan (SI) Police Station Mingora, District Swat.*

*...Respondents*

**FIR No. 1153**

**Dated: 15-11-2017**

**Charge No: 279 / 427 PPC-9C CNSA**

**Police Station: Mingora**

**PETITION UNDER SECTION 497 Cr. PC FOR THE RELEASE**  
**OF ACCUSED PETITIONER ON BAIL.**

**Respectfully Sheweth;**

*The petitioner submits as under.*

1. *That, the petitioner is booked for the alleged offence and since then is behind the bar (Copy of the FIR is attached as annexure A).*
2. *That the accused / petitioner filed bail application before the District & Sessions Judge / Zilla Qazi Swat, which entrusted to Additional Sessions Judge / Izafi Zilla Qazi VI Swat, who vide*

# JUDGMENT SHEET

IN THE PESHAWAR HIGH COURT,  
MINGORA BENCH (DAR-UL-QAZA), SWAT  
(Judicial Department)

Cr.M B.A. No. 584-M/2017.

## JUDGMENT

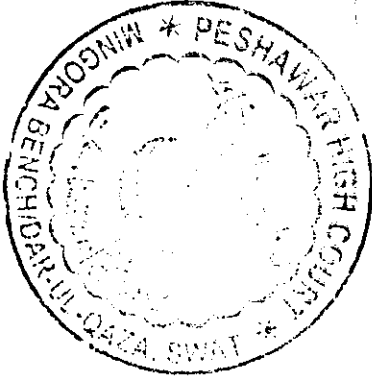
Date of hearing: 10.01.2018

Petitioner:- (Irfan Ullah) by Qazi Farid Ahmad, Advocate.

Respondents:- (the State & 1 another) by Miss Umaira Shaukat, State counsel

MOHAMMAD IBRAHIM KHAN, J.- On his implication, the accused/Petitioner Irfan Ullah in case FIR No. 1153 dated 15.11.2017 charged under sections 279, 427 PPC & 9 (C) CNSA registered at Police Station Mingora District Swat is optimistic for the grant of his post arrest bail.

2. Prior to, the prayer of the Petitioner for the similar relief before the Court of learned Additional Sessions Judge-VI/Izafi Zila Qazi/Judge Special Court Swat through B.A. No. 662/4 of the year 2017 was dismissed by an order dated 11.12.2017 for the all reasons enumerated therein.



ATTESTED

Nawab (S.B.) Hoo'ble Mr. Justice Mohammad Ibrahim Khan

3. The '*Murasila*' followed by lodging of the First Information Report would reveal that the complainant Sohrab Khan Sub Inspector was present at the place of occurrence along with other police officials and were in mobile *Ghast* of the *Illaga*. Upon receiving information that through motorcar GLT-6922 (golden color) huge quantity of Chars would be smuggled. In view of such information, they started surveillance of the motorcar. In the meanwhile, the said motorcar the particulars of which as mentioned above emerged from Kokarai side driven by co-accused Karim Ullah. It was given signal to halt but driver of the motorcar tried to escape from the spot. He was chased down by Constable Sultanat Khan through motorcycle, but the accused/driver hit the said motorcycle due to which it was damaged/jammed. After some time the motorcar was overpowered, the accused Karim Ullah was arrested while co-accused decamped from the spot. During search of the motorcar, out of its rear seat the police recovered 6 packets of Chars wrapped up in

ATTESTED

Examiner  
Peshawar High Court Bench  
Mingora District Quetta, Swat.

Navab (S.B.) Hon'ble Mr. Justice Mohammad Ibrahim Khan

white plastic bag. On weighment these 6 bags contained 6224 grams Chars. Out of which 5/5 grams were separated for chemical analysis while rest of the recovered stuff was sealed into separate parcels. Later on during cursory interrogation, the co-accused Karim Ullah disclosed the name of present Petitioner Irfan Ullah to be the joint-owner of contraband Chars; therefore, he was arrayed as an accused in the case and thereby arrested accordingly.

4. Having heard arguments of learned counsel for the Petitioner and learned State counsel, record with their assistance gone through.

5. Perusal of the record would reveal that the alleged recovery of Chars weighing 6224 grams has not been effected from ~~the~~ immediate possession of the present accused/Petitioner Irfan Ullah, rather it has been recovered from the motorcar driven by co-accused Karim Ullah. The name of this accused/Petitioner came to surface on disclosure

**ATTESTED**

Examiner  
Peshawar High Court Bench  
Mingora District Qaza, Swat.

Notary (S.B.) Hon'ble Mr. Justice Mohammad Ibrahim Khan

of co-principal accused Karim Ullah that the person who had decamped from the venue of crime was stated to be the present Petitioner Irfan Ullah. Whether this admission on the part of co-accused is a fact or otherwise accused/ Petitioner has been implicated in the case to settle his own personal terms by the co-accused (Karim Ullah), this aspect of the case could better be determined by the learned trial Court after recording of the evidence. Hence, at this stage the case of Petitioner falls within the ambit of further inquiry and as such he is entitled to the concession of bail.

6. As far as other sections of law levied against accused/Petitioner i.e. 279 & 427 PPC are concerned, these sections of law entail punishment for a term which may extend to two years or with fine or both, therefore, do not fall within the prohibitory clause of section 497 (1) Cr.P.C. Even otherwise, applicability of these sections in respect of present accused/Petitioner would come under scrutiny during trial, as the alleged motorcar was driven by co-accused

**ATTESTED**

Examiner  
Peshawar High Court Bench  
Mingora (Dist. Swat).

Newab (S.B.) Hon'ble Mr. Justice Mohammad Ibrahim Khan

Karim Ullah rashly and negligently due to which mischief was caused to the motorcycle owned by the Police Department.

7. With respect to the involvement of the accused/Petitioner in cases like one, suffice it to say, let its fall out be considered by the learned trial Court at the time of the disposal of the case on merits. Above all, investigation is complete, case is ready for trial and, as such, accused/Petitioner is no longer required to the local police for further investigation.

8. In view of the above, the Petitioner is entitled to the concession of bail. Hence, he is asked to furnish bail bonds in the sum of Rs. 100,000/- (Rupees one lac) with two sureties each in the like amount to the satisfaction of learned Trial Court, who shall ensure that the sureties are local, reliable and men of means.

9. <sup>(162)</sup>

These the reasons of my short order of even date.

10. It is pertinent to mention here that the observations made above are purely tentative in

**ATTESTED**

Examiner  
Peshawar Bench  
Muzaffargarh, Swat.

Nawab (S.D.) Hon'ble Mr. Justice Mohammad Ibrahim Khan

nature and should in no way prejudice the case of  
either party during trial.

Announced  
Dt: 10.01.2018

*(Signature)*  
JUDGE

Certified to be true copy

*(Signature)*  
EXAMINER  
Barid...  
13/2/18

Ok  
16/01/18  
n/R