

JUDGMENT SHEET

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

Cr.M.BA. No. 546-M/2016

JUDGMENT

Date of hearing: **24.02.2017.**

Petitioner:- (Raweed Shah) by M/S Muhammad Raziq & Aziz Muhammad, Advocates.

Respondents:- (the State & 1 another) by Barrister Asad Hameed-ur-Rahman, State counsel and Sahibzada Riaz-ul-Haq, Advocate.

MOHAMMAD IBRAHIM KHAN, J.- When on

18.8.2016 at the relevant time at 08:30 to 09:00

A.M Naib Subedar Bakhti Rahman Post Commander Wazir Abad received the information about commission of the occurrence pertaining the woman being murdered. He rushed to the house of Javaid-ur Rahman where in a room on a double bed he found the corpus of the woman. She was later identified as Mst. Naheed wife of Javaid-ur Rahman. By that time children were locked in another room. It was found that the said Mst. Naheed was slaughtered with sharp weapon/'Churi'. Hence, the said Naib Subedar

Bakhti Rahman is the lodger of the first information report.

2. It is under the statement of Javaid-ur-Rahman husband of the deceased that after being satisfied named the present Petitioner Raweed Shah to have slaughtered his wife. Earlier to, Mst. Saeeda wife of Irshad and Mst. Hameeda wife of Fazal Khalid who are sisters of the deceased Mst. Naeed have recorded their separate statements. No one has been charged except that a person leaving the house of the deceased with features of short stature, bald and having short beard, whose cloths were stained with blood was coming out of the said house. The said person can be indentified if brought before each of the sister of the deceased.

3. Prior to, Application No. 405/4 of the year 2016 for the grant of bail was dismissed by the Court of learned Additional Sessions Judge/Izafi Zila Qazi at Dargai vide the order dated 06.12.2016 for the all detailed reasons mentioned therein.

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

5. Learned counsel for the Petitioner mainly relied upon 2016 YLR Note 25 (Peshawar) " Sabir Shah vs Muhammad Usman and another", 2013 P Cr. L.J. 1580 (Lahore)" Bilal Ahmad alias Bilali vs the State and another" , pertaining to the grant of bail on the basis of 'Alibi' referred to 2016 MLD 1700 (Peshawar) "Aurangzeb vs the State and another" and 2016 SCMR 18 "Zaigham Ashraf vs the State and other". In the light of these dictums of the Hon'ble superior Courts prayed for bail. So much so with regard to identification parade after nomination of the accused he placed reliance on 2013 P Cr. L J 1580 (Lahore) " Bilal Ahmad alias Bilali vs the State and another". Inversely, learned counsel for the complainant referred to PLJ 2011 S.C. 40 " Shoukat Ilahi vs Javaid Iqbal etc" 2011 P Cr.L J 1623 (Peshawar) " Raj

Muhammad Khan vs the State and others",
2013 YLR 1948 (Sindh) " Bakhsh Ali vs the
State and 7 others", *2014 YLR 1595*
(Peshawar) " Alam Zar Khan vs the State and
another", *2012 P Cr. L J 975 (Sindh) " Abdul*
Ghani alias Ghani vs the State", *PLJ 2013*
S.C. 615 " Rao Abdul Jabbar Khan vs Lahore
High Court". Supported by the arguments of
learned State counsel by way of wisdom
contained in *2012 YLR 1355 "Shah Jehan and*
another vs the State" on the last seen evidence,
PLD 2003 Supreme Court 704 " Sh.
Muhammad Ahmad vs the State" and *2016 P*
Cr. L J 1790 (Peshawar) Mingora Bench Dar-
ul-Qaza "Nisar Ahmad vs the State through
A.A.G", whereby the statement of the accused
recorded under section 161 Cr.P.C could be
taken into consideration when the occurrence is
unseen and opposed grant of bail to the
Petitioner.

6. Yes by the time the 'Murasila' was
drafted and the first information was lodged on
its basis the matter has been reported by the

Post Commander Naib Subedar Bakhti Rahman.

When admittedly no one amongst relatives of the deceased so much so even the husband was not available to indentify anybody for the brutal slaughtering of Mst. Naheed.

7. There seems to be improvements when sisters of the deceased by the name of Mst. Saeeda and Mst. Hameeda have come forward on 20.8.2016 and stated that a person being bald, short in height and having short beard whose clothes were stained with blood was coming out of the house of the deceased empty handed. He can be identified if brought before both of the sisters. When the identification parade is given its due consideration it is silent about the features given by both of the sisters of the deceased. Even identification parade was conducted after nomination of the accused/Petitioner in the case in hand by Javaid-ur-Rahman husband of the deceased. While considering the bail petition its effect would lose its efficacy.

8. The evidence of last seen in view of the arguments of the learned State counsel for the State cannot be beneficial in the light of the identification parade which is deficient with regard to features of the accused/Petitioner.

9. For the time being unless the prosecution witnesses step into witness-box and further lead evidence in accordance with identification parade of the Petitioner there are reasons to believe that it is a case of further inquiry and accused/Petitioner may take benefit till his proper identification.

10. This is all tentative assessment when observations of this Court shall not be taken into consideration by the learned trial Court while deciding the wheel of fortune of the Petitioner either in his acquittal or conviction.

11. Petitioner in the developed scenario, is entitled to the concession of bail subject to his furnishing bail bonds in the sum of Rs. 200,000/- (Rupees two lac) with two sureties each in the like amount to the satisfaction of

learned Illaqa Qazi/Judicial Magistrate/MOD,
who shall ensure that the sureties are local,
reliable and men of means.

These are the reasons of my short of
even date.

Announced
Dt: 24.02.2017.

JUDGE