

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

Cr.Misc.BA No.1783-P/2015

Date of hearing: _____

Petitioner (s) : _____

Respondent (s) : _____

JUDGMENT

ASSADULLAH KHAN CHAMMKANI, J.- Petitioner

Noor Muhammad, seeks bail in case FIR No.248 dated 08.09.2008, registered under sections 324/34 PPC and S.17 (4) Offences Against Property (Enforcement of Hudood) Ordinance, 1979, in Police Station Gumbat, wherein he alongwith absconding co-accused Jehanzeb, is charged for forcibly snatching cash amount and mobile sets from complainant Khan Badshah and deceased Saeed Khan, as well as committing the murder of deceased Saeed Khan and attempting at the life of complainant thereby causing him fire arm injuries.

2. Arguments heard and record perused.

3. The petitioner has not been named by the injured-complainant in his initial report rather he charged two unknown culprits for commission of the offence. It was Tariq Khan SI, who named the petitioner in initial

report with a version that on the report of fire shots, when he was being attracted to the spot he noticed accused-petitioner and co-accused Jahanzeb climbing on a nearby hill towards Nizampur. Admittedly, said Tariq Khan S.I. who handed down the report of complainant is not the eyewitness of the incident. The complainant has not named the petitioner in his initial report nor later on. No identification parade of the petitioner has been conducted through the complainant. The complainant has also not disclosed the features and descriptions of the assailants in his report. The petitioner has not confessed his guilt before the competent court of law nor has anything incriminating been recovered from his direct or indirect possession to depict his connectivity with the commission of offence. On tentative assessment of the material available on record and discussed above, reasonable grounds exist which make the case of the petitioner arguable for the purpose of bail. Since on merits, the case of bail has been made out, therefore, mere absconsion of the petitioner cannot be a ground for refusal of bail as per ratio of judgment of the Apex Court in case titled, **“Mitho Pitafi Vs The State” 2009 S C M R 299,**

4. Accordingly, this petition is allowed. Accused/petitioner is admitted to bail, provided he

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
12.11.2015

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

