

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

Cr.Misc.BA No.2121-P/2015

Date of hearing: _____

Petitioner (s) : _____

Respondent (s) : _____

JUDGMENT

ASSADULLAH KHAN CHAMMKANI, J.- Petitioner

Faiz ur Rehman, seeks bail in case FIR No.218 dated 31.08.2015, registered under section 302/311 PPC, in Police Station Yar Hussain Swabi, wherein he is charged by Gul Rehman (his father), for committing the murder of his sister Mst. Azra with firearm.

2. At the very outset, learned counsel for the petitioner stated at the bar that the deceased being un-married is survived by her father Gul Rehman and mother Mst. Ranra Jan, who both have effected compromise with the petitioner by waiving their rights of Qisas and Diyat. To this effect, learned counsel referred to their joint statement recorded before the learned lower court on 26.10.2015.

3. In view of the joint statement of LRs of the deceased coupled with the fact that the offence is

compoundable, the compromise is accepted and the petitioner is directed to be released on bail subject to his furnishing bail bonds in the sum of Rs.3,00,000/- with two sureties each in the like amount to the satisfaction of learned Illaqa Judicial Magistrate/MOD concerned.

4. Before parting with the judgment, I deem it appropriate to mention here that S.311 PPC, has wrongly been inserted by the police in the FIR, because the said section provides punishment as Ta'azir for the offender with whom the LRs of the deceased compound the offence or they waived their rights of Qisas and Diyat, if the learned trial Court keeping in view the facts and circumstances and if the principle of Fasa fil Arz is attracted, may award him punishment as Ta,azir. Therefore, insertion of S.311 PPC on the very first day of registration of FIR, without any compromise is unwarranted.

5. The Additional Registrar (Judicial) of this court is directed to send copy of this judgment to the learned Additional Sessions Judge-I Lahor Swabi for guidance and learned Sessions Judge Swabi who shall circulate the same among Additional Sessions Judges, of the District.

Announced
23.11.2015.

J U D G E