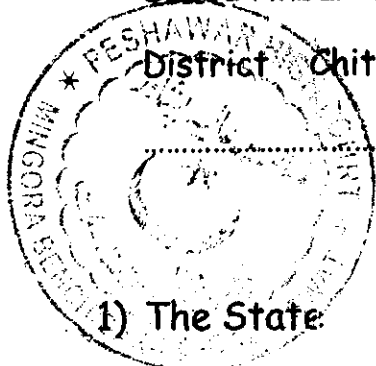


**IN THE PESHAWAR HIGH COURT, MINGORA BENCH**  
**(DARUL QAZA), SWAT**

Criminal Misc. BA No. 592-M of 2017

Saeed Akbar son Mir Akbar Khan r/o Village Damel Teshil Drosh

District Chitral Presently confined in central Jail Chitral



**ACCUSED/ PETITIONERS**

**VERSUS**

1) The State

2) Maaz Ullan Son of Sahib Zarin Village Damel Tehsil Drosh Chitral

**RESPONDENTS**

**CASE FIR NO.68 DATED 11-12-2017, U/S 436, 427, 147, 149 PPC,**  
**POLICE STATION (Arundli) DISTT: CHITRAL,**

**APPLICATION UNDER SECTION 497 CR P.C FOR THE**  
**RELEASE OF THE ACCUSED/PETITIONERS TILL THE**  
**FINAL DECISION OF THE CASE.**

**Respectfully Sheweth;**

- a) That the accused petitioner is falsely charged along with other accused by the complainant in the above noted FIR.
- b) That the accused/petitioner applied for bail before the Addle Session judge Chitral who vide order dated 19-12-2017 dismissed the bail application of the accused/petitioner, hence this bail application is filed on the following amongst others.

**Grounds:**

**FILED TODAY**  
**23 DEC 2017**

 **Additional Registrar**

- a) That the accused/petitioner is innocent and falsely implicated by the complainant after fully consultation and deliberation

# JUDGMENT SHEET

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

Cr.M B.A. No. 592-M/2017

Saeed Akbar V/S The State & 1 another



Cr.M B.A. No. 593-M of 2017

Safi Ullah V/S The State & 1 another

&

Cr.M B.A. No. 594-M of 2017

Wazir V/S The State & 1 another

CONSOLIDATED

JUDGMENT

Date of hearing: 11.01.2018

Petitioner:- (Saeed Akbar) by Mr. Rahim Ullah Chitrali, Advocate.

Respondents:- (the State & 1 another) by Mr. Rafiq Ahmad, Asst: Advocate General and Mr. Ahmad Riaz Wardag, Advocate.

MOHAMMAD IBRAHIM KHAN, J.- These

criminal miscellaneous petitions, Cr.M. B.A.

No. 592-M of 2017 preferred by Saeed Akbar,

B.A. No. 593-M of 2017 submitted by

Safi Ullah and B.A. No. 594-M of 2017 by

Wazir for the grant of their post arrest bail

arising out of one and the same FIR bearing

ATTESTED

Examiner  
Peshawar High Court Bench  
Mingora, Dar-ul-Qaza, Swat

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

No. 68 dated 11.12.2017 charged under sections 436, 427, 147, 149 PPC registered at Police Station Arandu District Chitral, therefore are disposed of through this singled-out judgment.

2. Earlier, for the grant of similar relief these accused/Petitioners separately preferred their bail petitions before the Court of learned Additional Sessions Judge/Izafi Zila Qazi Chitral, which were dismissed on one and the same date i.e. 19.12.2017.

3. As per '*Murasila*' followed by lodging of the First Information Report on 01.12.2017 at 08:30 hours the complainant Maaz Ullah orally reported the matter to the local police of Police Station Arandu. In view whereof an inquiry was initiated under section 157 Cr.P.C. and during spot inspection it was found that at the place of occurrence seven (7) <sup>145</sup>houses of the complainant-party were completely burnt down. The house-hold articles and other nutritional foods lying in these houses were also set ablaze. As per initial report and

**ATTESTED**

Examiner  
Peshawar High Court Bench  
Mingora Darul-Qaza, Swat.

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

statements of the witnesses recorded under sections 161/164 Cr.P.C. a loss of Rs. 65/66 lacs caused to the complainant-party. Thus, on the basis of above assertions leveled by the complainant-party, the *ibid* FIR was lodged against all these accused/Petitioners and other co-accused.

4. Having heard arguments of learned counsel for the Petitioners, learned counsel for the complainant and learned Asstt: Advocate General for the State, record with their assistance gone through.

5. Learned counsel for the Petitioners referred to PLD 2017 Supreme Court 733 "Muhammad Tanveer V/S The State and another", 2014 YLR 2532 (Peshawar) " Havass Khan V/S The State and 2 others", unreported judgment of this Court delivered in Cr.M B.A. No. 1243-P of 2015 by the then His Lordship Mr. Justice Assadullah Khan Chammkani on 28.08.2015, 2010 SCMR 1178 " Dilmurad V/S The State", 2013 YLR 1481 "

ATTESTED

Examiner

Peshawar High Court Bench  
Mingora/Dar-ul-Qaza, Swat.

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

Aetabar V/S The State", 2016 MLD 1103

(Sindh) "Zahid Hussain Chandio V/S The

State", 2016 YLR 32 (Sindh) "Abdul Rehman

alias Sain V/S The State", 2017 YLR 2458

(Peshawar) "Rehman Ullah V/S The State

and another", 2011 P Cr.LJ 420 (Lahore) "

Dillawar Hussain V/S The State and another"

and 2004 SCMR 1560 "Muhammad Amin

alias Irfan and another V/S The State". In the

light of these dictums of the Hon'ble superior Courts prayed for the grant of bail in favour of each of the accused/Petitioner. Inversely, learned counsel for the complainant duly assisted by learned Astt: Advocate General appearing on behalf of the State vehemently opposed the grant of bail in favour of the accused/Petitioners as they have been charged for setting ablaze houses of the complainant-party and thereby caused huge financial loss of Rs. 65/66 lacs to them.

6. It appears from the record that though the accused/Petitioners are directly charged in the First Information Report by the

**ATTESTED**

Examiner

Peshawar High Court Bench  
Mingora-Dar-ul-Qaza, Swat.

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

complainant for commission of the alleged offence, yet a bird eye view of the record on the basis of tentative assessment would divulge that none amongst the complainant-party has witnessed this occurrence which had been admittedly taken place at *Sham Vela*, so, identification of the real culprits still a mystery which could be resolved after recording of evidence by the learned trial Court. Though, the prosecution cited two eyewitnesses by the names of Ijaz-ul-Haq and Shah Muhammad Khan but their statements were recorded under section 164 Cr.P.C with considerable delay of 5 days as the alleged occurrence took place on 30.11.2017 whereas statements of these eyewitnesses were recorded on 06.12.2017. No explanation whatsoever has been forwarded by the prosecution in this regard that why statements of these important prosecution witnesses were not recorded within time, so, this element too makes the version of prosecution doubtful at least tentatively.

ATTESTED

Examiner  
Peshawar High Court Bench  
Mingora Dar-ul-Qaza, Swat.

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

7. Even otherwise, it is more than settled that when ultimate conviction, if any, repairs the wrong caused by mistaken relief of bail it would be rather harsh and even unjust to decline bail to an accused/Petitioner in a case entailing a sentence which may extend up to 10 years. In this regard, wisdom is derived from the judgment of Hon'ble Supreme Court titled as "Syed Khalid Hussain Shah vs. the State and another" (2014 SCMR 12).

8. Moreover, investigation in the case is complete, as the prosecution has already prepared complete *challan* on 29.12.2017 and will shortly be submitted before the competent Court having jurisdiction in the matter. So, any further findings on merits might prejudice the case of either party during trial.

9. In view of the above, all these connected bail petitions are allowed and accused/Petitioners Saeed Akbar, Safi Ullah and Wazir are enlarged on bail subject to furnishing

ATTESTED bail bonds in the sum of

Examiner  
Peshawar High Court Bench  
Mingora/Dar-ul-Qaza, Swat.

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

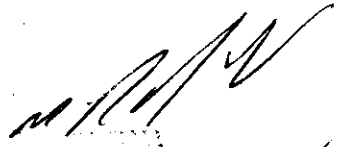
Rs. 200,000/- (Rupees two lacs) with two sureties each in the like amount to the satisfaction of learned Trial Court, who shall ensure that the sureties are local, reliable and men of means.

10. These are the reasons of my short orders of even date.

Announced  
Dt: 11.01.2018.

  
JUDGE

Certified to be true copy

  
13/2/18

offic  
16/01/18  
w/R