

IN THE PESHAWAR HIGH COURT,
PESHAWAR
(Judicial Department)

Cr.Misc.BA NO.2482-P/2015

Date of hearing: _____

Petitioner (s) : _____

Respondent (s) : _____

ORDER

ASSADULLAH KHAN CHAMMKANI, J.- Petitioner

Khalil Khan, seeks bail in case FIR No.599 dated 29.11.2015, registered under sections 457/380/120-B PPC and S.14 Offences Against Property (Enforcement of Hudood) Ordinance, 1979 as well as S.10 of Rented Building Restriction Act, in Police Station West Cantt. Peshawar.

2. According to report of complainant Muhammad Shoaib on 28.10.2015 at 8.00 p.m. he while closing his Jewelry shop situated in Liaqat Bazaar went to his house and on next day when he opened his shop, found its roof locks broken and 400 tolas gold and Rs.8,00,000/- in cash missing/ stolen therefrom. He charged unknown culprits in his initial report. Later on, on 08.12.2015, he in his statement under section 164 Cr.P.C., besides charging absconding co-accused Najibullah, Sher Ali, Tariq, Char

Gul alias Haji, Abdul Hadi and unknown co-accused, also charged present petitioner by attributing him the role of instigation in the commission of offence by advancing a motive that petitioner had rented out his shop contiguous to his shop in lieu of Rs.9000/- as rent per month to co-accused named above without any rent deed or surety, against which he complained to the petitioner about his apprehension regarding theft by the co-accused being afghan refugees, by jumping to the third floor of his shop, on which the petitioner annoyed.

3. Arguments heard and record perused.

4. Except the above motive advanced by the complainant against the petitioner in his statement recorded on 08.12.2015, that too, after a period of more than one and a half month from the date of incident, at the moment there is no other piece of direct or circumstantial evidence to connect the petitioner with the commission of offence. Besides, the role of instigation attributed to the petitioner can only be determined during trial after recording evidence which is sole domain of the Trial Court. At the moment on tentative assessment of the material on record, participation of the petitioner in the commission of offence requires further probe into his guilt, therefore, he is entitled to concession of bail.

5. Resultantly, this petition is allowed. Accused/petitioner is admitted to bail provided he furnishes bail bonds in the sum 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
01.02.2015

J U D G E

