

**JUDGMENT SHEET
PESHAWAR HIGH COURT,
ABBOTTABAD BENCH.
JUDICIAL DEPARTMENT**

**Cr.M.BA No.182-A/2020
Mehboob-ur-Rehman etc. Vs the State & another**

Date of hearing **08.04.2020**

Petitioners by: Mr. Faqeer Muhammad Advocate.

State by: Raja Muhammad Zubair, AAG.

Complainant by: Mr. Shad Muhammad Khan,
Advocate.

JUDGMENT

AHMAD ALI, J. Through the instant petition, the petitioners (Mehboob-ur-Rehman, Atiqu-ur-Rehman and Arshad Aziz), seek their post arrest bail in case FIR No. 31 dated 10.02.2020, under Sections 302/148/149 PPC read with Section 15-AA KPK, Police Station, Chanjal (District Battagram).

2. Brief facts of the case are that the complainant Haq Nawaz Khan reported the matter to the local police to the effect that he was present in house when at 03:30 AM, his brother Niaz Muhammad Khan informed him from Abbottabad that their brother Abdul Latif has been murdered.

On this information, he reached the house of Sarnawaz Khan and found the dead body of Abdul Latif, lying in a washroom. He charged accused Niaz-ur-Rehman, Sajeed-ur-Rehman, Saeed-ur-Rehman, Mehboob, Arshad and Attique ur Rehman for committing murder of his brother. Motive for the occurrence was disclosed to be previous quarrel which though was compromised.

3. Arguments of the learned counsel for the parties heard and record perused with their valuable assistance.

4. Perusal of record reveals that six persons have been charged for the commission of offence. The complainant was, however, neither eyewitness of the occurrence nor had first hand information regarding the occurrence, while the brother of complainant namely Niaz Muhammad Khan, who informed the complainant about the occurrence, had not himself reported the matter to the local police.

5. Another important aspect of the case is that co-accused Niaz-ur-Rehman has confessed his guilt by recording his statement under Section

164/364 Cr.P.C. Though the evidentiary value of the confessional statement of accused Niaz-ur-Rehman is yet to be determined at trial, however, tentative assessment of the same reveals that he has exonerated the present petitioner and claimed that he alone was involved in the murder of deceased. Moreover, the complainant in his report, charged accused/petitioners along with co-accused for preplanned murder of the deceased, however, no specific role towards commission of offence was attributed to the present petitioners. The case against the present petitioners thus squarely falls within the ambit of further inquiry, entitling them to the concession of bail.

6. It has, time and again, held by the superior Courts that the question of vicarious liability is always to be seen by the trial Court. In this respect reliance can be placed on case laws reported in 2010 SCMR 1219, 1986 NLR SC 885 & 2011 SCMR 902.

7. For what has been discussed above and on tentative assessment of material available on file, a case for grant of bail is made out. Resultantly, this

petition is allowed and the accused-petitioners, named above, are admitted to bail, on furnishing bail bonds in the sum of Rs.200,000/- each with two sureties each in the like amount to the satisfaction of learned Illaqa/Duty Judicial Magistrate concerned, who shall ensure that the sureties are local, reliable and men of means.

ANNOUNCED;
08.04.2020


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