

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

**Cr.Misc.BA No.1501-P/2015**

Date of hearing: \_\_\_\_\_

Appellant (s) : \_\_\_\_\_

Respondent (s) : \_\_\_\_\_

**JUDGMENT**

**ASSADULLAH KHAN CHAMMKANI, J.-**

Petitioner Muhammad Usman Raees, seeks bail  
in case FiR No.103 dated 06.08.2015, registered  
under section 462-C PPC, in Police Station FIA,  
ACC, Peshawar.

2. Allegations against the petitioner are  
that on 05.08.2015, Walid Khan Engineer (D)  
SNGPL, alongwith FIA official, namely,  
Asfandar and SNGPL Team, conducted a raid  
on his factory known as “Khattak Chemicals”  
situated at Sabir Abad and found the factory  
consuming gas through an illegal direct line

connected with existing 8” dia gas min line,  
hence, this case.

3. Arguments heard and record perused.

4. It appears from the record that in support of allegations levelled in the FIR, neither initially the FIA officials nor subsequently, the police have collected any incriminating evidence. Nothing in black and white has been brought on record in respect of the alleged factory to be the ownership of the petitioner. Similarly, the extension pipe line vide the gas was being consumed by the petitioner illegally from the mine pipe line has been taken into possession. This court is conscious of the fact that in such like offence, general public do not stand witness against the others, therefore, such cases are always built up through incriminating evidence such as recoveries from the spot. The FIA officials and the police has not taken pain to collect any such incriminating

evidence so much so that no site plan has been prepared. No proper report qua damage caused by the petitioner to the Government Exchequer has been assessed. Though a general assessment report in respect of damage of entire year keeping in view the alleged illegal consumption of the petitioner has been prepared, but it has not been clarified therein specifically as to how much damage he has caused to the Public Exchequer by the petitioner through illegal connection. This court has taken serious notice of the matter, that the law enforcing Agencies are dealing such cases in a casual manner, which ultimately results in acquittal of the offenders, as cases are always decided on the basis of evidence collected against the offenders. Thus court cannot shut its eyes or to remain mum like a silent spectator on the conduct of the concerned authorities, whose negligence proves loss to the Government Exchequer. The

concerned authorities of the SNGPL, FIA and Police are, therefore, expected that in future in cases of theft of electricity, gas, petroleum etc, they shall be vigilant and shall leave no stone in collecting the incriminating evidence in support of the allegations in the FIR.

5. For the reason discussed above, the case of the petitioner is arguable for the purpose of bail. Besides, the applicability of S.462-C PPC, in presence of S.25 (d) of Oil and Gas Regulatory Authority Ordinance, 2002, which is a Special law, is yet to be determined during trial. S.462-C PPC provides punishment of imprisonment for a term which may extend to ten years but shall not be less than five years and with fine which may extend to three million rupees while punishment provided under section 25 (d) of the OGRA Ordinance, 2002, is imprisonment which may extend to three years or with fine or with both and it is settled law that

when an accused is charged under two different statutes for the same offence, the offence having lesser sentence is taken into consideration for the purpose of bail, so on this ground too, petitioner is entitled to concession of bail.

6. 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 and reliable sureties each in the like amount to the satisfaction of learned Illaqa Judicial Magistrate/MOD, concerned.

The Additional Registrar (Judicial) of this Court is directed to sent copy of this judgment to the General Manager SNGDPL, Director General FIA, and the Additional Inspector General (Investigation), Khyber Pakhtunkhwa, Peshawar for future guidance and compliance.

**Announced**

**07.09.2015**

**J U D G E**





