

IN THE PESHAWAR HIGH COURT,  
PESHAWAR  
(Judicial Department)

Cr.Misc.BA No.185-P/2016

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

Petitioner (s) : \_\_\_\_\_

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

**ORDER**

**ASSADULLAH KHAN CHAMMKANI, J.-** Being unsuccessful before the two Courts below to get the concession of bail, petitioner through this further petition seeks the same concession from this Court in case FIR No.802 dated 24.08.2015, registered under sections 302/324/364/148/149/34 PPC, in Police Station Tehkal, wherein he alongwith absconding co-accused is charged for committing the murder of Muhammad Bilal deceased, and attempting at the lives of PWs Jehanzeb Khan and Tanveer Abdullah.

2. On the previous date Hazrat Noor respondent/ one of the LRs of the deceased appeared, requested for cancellation of non-bailable warrant of arrest issued against him and sought time to engage a counsel. On his request warrant of arrest was cancelled and the case was posted to 11.02.2016 with the direction to him to

engage a counsel for the date fixed, but today despite repeated calls and sufficient wait, neither he nor any counsel on his behalf turned up, therefore, this petition cannot be kept pending for indefinite period and is going to be disposed of on merits on the available record in light of arguments of learned counsel for the petitioner and learned State counsel.

3. Arguments heard and record perused.

4. Admittedly, none has furnished the ocular account of murder of the deceased. It appears from the record that on 24.08.2015 at 06.00 hours, the dead body of the deceased was recovered by the local police from a thoroughfare within the limits of Mandi Kalan. Nobody identified the deceased, hence, his dead body was shifted to KMC, for postmortem examination and murasila report against unknown accused was drafted. On 26.08.2015 one Jehanzeb Khan the cousin of deceased Muhammad Bilal, recorded his statement under section 164 Cr.P.C., wherein he deposed that on 23.08.2015 at 9.30 p.m. he alongwith Abdullah and deceased Muhammad Bilal were on the way to homes from Hujra when in the meantime, accused Muhammad Fawad, Rafiad, Waqas, Muhammad Ayub and Naeem duly armed, intercepted them, forcibly put the deceased in the motorcar in which the petitioner was sitting

on driving seat and opened fire at them, but they luckily escaped unhurt; that the accused abducted the deceased in the motorcar, and later on, committed his murder. Previous blood feud between them and the accused has been alleged as motive behind the occurrence; that later on, they came to know about the dead body of the deceased in KMC, Peshawar. He charged the petitioner and above named absconding co-accused for abduction of the deceased, his murder as well as attempt to commit their murder.

5. Admittedly, no report has been filed by said Jehanzeb Khan on the very first day of the alleged abduction of the deceased and firing at them or by PW Abdullah. No empties from the spot wherefrom the deceased was allegedly abducted and the PWs were fired at by the accused has been recovered. The explanation qua non-reporting the incident furnished by PW Jehanzeb who is 25 years old, that since their elders were not available therefore, they were consulting them, does not seem to be plausible and keeping in view the previous enmity between the parties possibility of false implication of the petitioner cannot be ruled out. As per postmortem report the cause of death of the deceased was due to blunt trauma to his brain. The petitioner has not confessed his guilt before the competent Court of law nor has anything incriminating to

connect him with the commission of offence been recovered either from his direct or indirect possession or on his pointation. On tentative assessment of the material available on record at the moment participation of the petitioner in the commission of offence requires further probe into his guilt therefore, he is entitled to concession of bail.

6. Accordingly, 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**  
**11.02.2016**

**J U D G E**













