

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

Cr.Misc.BA No.2027-P/2015

Date of hearing: _____

Petitioner (s) : _____

Respondent (s) : _____

JUDGMENT

ASSADULLAH KHAN CHAMMKANI, J.- Petitioner

Abdullah Khan alias Amanat, seeks bail in case FIR No.375 dated 23.06.2015, registered under sections 324/427/34 PPC, in Police Station Prang, District Charsadda, wherein he alongwith co-accused Faqir Hussain and Ihsan Ullah, is charged for attempting at the lives of complainant Behram Khan and PWs Sajjad Ahmad and Waqas by firing at them ineffectively.

2. Arguments heard and record perused.

3. None has sustained any injury in the incident.

Co-accused Faqir Hussain has already been granted bail by this Court vide order dated 27.08.2015 in Cr.Misc.BA No.1368-P/2015. The case of the petitioner is not on different footing from that of the petitioner Faqir Hussain, therefore, on the rule of consistency he is also entitled to concession of bail.

4. Accordingly, this petition is allowed. Accused/petitioner is directed to be released on 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.

5. Before parting with the judgment, I deem it appropriate to mention here that co-accused Faqir Hussain, whose role is identical to that of the petitioner, has been granted bail by this Court. The ground of applicability of rule of consistency to the case of the petitioner has specifically been agitated by the petitioner in his bail petition before the learned lower Court/ Additional Sessions Judge-V, Charsadda, but I do not find any findings of the learned lower court on the said ground, rather the learned lower court by passing a routine cyclostyle order regarding rejection of bail, rejected the bail application of the petitioner, without caring and following the judgment of this Court. According to the Constitution, the judgments of the superior Courts are binding on the subordinate Courts and are to be followed as precedents strictly in cases having identical facts and circumstances, deviation wherefrom, on one hand, would be against the very spirit of the Constitution, while on the other hand, it would increase the

burden of cases on the racks of the superior Courts. If the learned lower Court was satisfied to decline bail to the petitioner, at least it should have differentiated his case from that of co-accused, but no such findings have been given in bail refusing order. Apart from the instant case, I have observed this practices of the subordinate judiciary in so many other cases, that the judgments of the superior Court are not honoured as precedents in cases having identical facts and circumstances as well as even in the same cases where the role of the accused are one and the same. Therefore, in the interest of justice and keeping in view mandate of the Constitution of the Country, it is expected that such illegal exercise shall not be repeated in the future.

6. The Additional Registrar (Judicial) of this Court is directed to send copy of this judgment to Miss Ambareen Navid, learned Additional Sessions Judge-V, Charsadda as well as learned Sessions Judge, Charsadda who shall circulate the same among the other Additional Sessions Judges, of the District, for future guidance.

Announced
20.11.2015

J U D G E

7. For what has been discussed above, Suo motu notice given to accused Shakir stands withdrawn. He is admitted to bail on already existing bail bonds, on merits. Since this court has already directed expeditious conclusion of trial while dealing with the bail petition of co-accused Farman, therefore, office is directed to send the record to the quarter concerned within two days, positively.

announced:
19.10.2015

J U D G E