

IN THE PESHAWAR HIGH COURT,
PESHAWAR
(Judicial Department)

Cr.Misc. BA No.2064-P/2015

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 Peer Wahid Shah, through this further petition, seeks the same concession from this Court in case FIR no.413 dated 21.08.2015, registered under sections 324/337-F (ii)/337-A (i)/382/148/149 PPC, in Police Station Jungle Khel Kohat wherein he alongwith co-accused Riaz ud Din, Amjid ud Din and Wajjad ud Din, is charged for attempting at the life of complainant Syed Ajm ud Din by giving him dagger blows and firing at him, as a result, he sustained injuries. A land dispute has been alleged as motive behind the incident.

2. Arguments heard and record perused.

3. It appears from the record that complainant has not sustained any firearm injury. The two injuries, one on right hand and the other on ear of the complainant, have

been observed by the medical officer to be result of sharp weapon. The role of giving dagger blows and firing has been simultaneously, assigned to four accused including the petitioner. Three co-accused named above, whose role as per contents of FIR is identical to that of the petitioner have been granted bail by the learned lower court against which no bail cancellation petition has been filed either by the State or complainant, therefore, on the principle of consistency the petitioner would also be entitled to bail. The only ground which prevailed before the learned lower court while declining bail to the petitioner was that in the site plan the role of fatal dagger blows has been attributed to him, but this aspect of the case when no such role fatal has been given to the petitioner in the report, would by itself makes the case of the petitioner arguable for the purpose of bail. Besides, keeping in view the let off, of the complainant who was in the clutches of four accused, intention of the accused to kill/applicability of S.324 PPC, is yet to be determined during trial after recording evidence. Punishments of other offence with which the petitioner is charged do not fall within the Prohibitory Clause of S.497 Cr.P.C., therefore, in the circumstances, I am inclined to exercise the discretion of bail in favour of the petitioner.

4. 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
18.12.2015

J U D G E