

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

Cr.Misc.BA No.1311-P/2015

Date of hearing: _____

Petitioner (s) : _____

Respondent (s) : _____

JUDGMENT

ASSADULLAH KHAN CHAMMKANI, J.-

Petitioners (1) Asadullah (2) Jehanzeb and
 (3) Naseem Ullah, seek bail in case FIR No.176
 dated 24.05.2015, registered under sections
 302/148/149 PPC, in Police Station Shahbaz
 Garhi, Mardan, wherein they alongwith
 absconding co-accused Zia Ullah, and Sohail,
 are charged for committing the murder of Majid
 Ullah deceased son of complainant
 Mst. Haseena by firing at him, on a motive of a
 land dispute.

2. Arguments heard and record gone through.

3. True that all the petitioners have been directly nominated in the FIR, but according to autopsy report of the Majid Ullah deceased he sustained single firearm entry wound which resulted his death, which shot has been specifically attributed to absconding co-accused Zia Ullah. Though, petitioners have been shown at crime venue with deadly weapons at the time of incident, but there is no allegation of firing against them. The only allegation against petitioners is that of grappling with the deceased, but autopsy report of the deceased does not support the aforesaid version as neither any scratch nor bruises has been observed on the dead body of the deceased. In absence of any overt act of the petitioners, question of their common intention with the principal accused,

cannot be determined without recording evidence, when they have not actively participated in the occurrence. On tentative assessment of the material available on record, participation of the accused-petitioners in the commission of crime requires further inquiry. It is settled law that bail may not be refused merely on the ground that accused is directly charged in the F.I.R for a heinous offence, when otherwise, he is found entitled to the concession of bail because any mistaken relief of bail can be repaired by convicting the accused, if proved guilty at the trial, but no proper reparation can be offered to him for his unjustified incarceration, albeit, his acquittal in the long run.

4. In view of the above stated reasons, I am inclined to exercise the discretion of bail in favour of the petitioners. Resultantly, the petition is allowed. Petitioners are admitted to bail,

provided each one of them furnishes bail bonds
in the sum of Rs.3,00,000/- with two sureties
each in the like amount to the satisfaction of
learned Illaqa Judicial Magistrate/MOD
concerned. The sureties must be local, reliable
and men of means.

Announced
27.08.2015.

J U D G E

