

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

Cr.Misc.BA No.1243-P/2015

Date of hearing: _____

Petitioner (s) : _____

Respondent (s) : _____

JUDGMENT

ASSADULLAH KHAN CHAMMKANI, J.-

Petitioner Hakeem Khan, seeks bail in case FiR NO.286 dated 08.04.2015, registered under sections 302/3424/34 PPC, in Police Station Badhber, Peshawar, wherein he alongwith his sons (absconding co-accused) Saeed and Bacha Khan, is charged for committing the murder of Akhtar Ali deceased and attempting at the lives Sifat Ullah and Asghar Khan with firearms, on a motive of some land dispute.

2. On the previous date i.e. 25.08.2015, learned counsel for the petitioner besides

arguing the case on merits, stressed upon release of the petitioner on bail on the ground of his old age and weak health. Since, for determination of age and physical status of the petitioner, record was not sufficient, therefore, in the interest of justice, the petitioner was directed to be requisitioned from concerned Jail and be produced before the court for today.

3. Today, petitioner is before the Court in hand cuffs. On observation, I find him too much old with quite feeble health, having low eyesight bearing heavy spectacles on his face. Admittedly, old age or infirmity are physical phenomena and which can be perceived by seeing and no documentary evidence would be required to hold a lame person to be a lame person or an old person to be an old. In view of old age and feeble physical condition of the petitioner, coupled with the fact that on the very

next date of incident he himself has surrendered before the police, his participation in the incident is a debatable question to be answered by the prosecution during trial. When confronted with the feeble physical condition and old age of the petitioner, learned AAG and learned counsel for the complainant fairly and frankly expressed their no objection on his release on bail, however, requested for avoiding findings on the merits of the case on the ground that it may prejudice the case of the prosecution to the extent of absconding co-accused. The request being genuine, I am in agreement with them.

3. Accordingly, I without touching the merits of the case, release the petitioner on bail on the sole ground of his old age and feeble health, provided he 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. The prosecution is directed to submit challan against the petitioner within a week and the learned trial court shall conclude the trial expeditiously. Office is directed to send the record to quarter concerned within two days, positively.

Announced
28.08.2015

J U D G E

