

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

Cr.Misc.BA No.1559-P/2015

Date of hearing: _____

Petitioner (s) : _____

Respondent (s) : _____

JUDGMENT

ASSADULLAH KHAN CHAMMKANI, J.- Petitioners

(1) Abubakar and (2) Muhammad Ishaq, seek bail in case FIR No.779 dated 12.08.2015, registered under sections 302/324/34 PPC, in Police Station Chamkani, Peshawar, wherein they alongwith absconding co-accused are charged for attempting at the lives of complainant Muhammad Qasim, his son Danyal by firing at them, as a result they sustained firearm injuries. Demand of amount by the accused from the complainant party has been alleged as motive behind the incident; that due to firing of the accused, a passerby, namely, Akhtar Munir lost his life while passersby, Ibrar and Suleman sustained firearm injuries.

2. Arguments heard and record perused.

3. It appears from the record that about the same incident FIR No.780 dated 12.08.2015 has been registered on the report of Muhammad Abubakar (one of the petitioner herein), wherein he besides charging other accused, charged accused Qasim and Danyal (injured of the instant case), for attempting at the lives of complainant and his companions, causing injuries to passerby Sadaqat and committing the murder of his brother Danish and a passerby Akhtar Munir. Time, date and venue of occurrence as well as the parties of both the FIRs are the same, therefore, falls within the definition of cross-cases. At the moment it is certain as to which party was aggressor and which was aggressed upon as in such like cases self-defence is a plausible plea, which is normally taken. In this view of the matter, who attacked and who acted in self defence, is a matter of further inquiry which is yet to be determined during trial after recording evidence, however, it makes the case of the petitioners arguable for the purpose of bail. In this regard guidance may be derived from cases titled, **“Hamza Ali Hamza & others Vs The State” (2010 S C M R 1219)**, **“Muhammad Shahzad Siddique Vs The State & another” (P L D 2009 S C, 58)**, **“Shoaib Mehmood Butt Vs Iftikhar-ul-Haq and 3 others” (1996 S C M R, 1845)**.

4. Accordingly, this petition is allowed. Petitioners are admitted to bail provided each one of them

furnishes bail bonds to the tune 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
05.10.2015.

J U D G E

