

**JUDGMENT SHEET  
IN THE PESHAWAR HIGH COURT,  
BANNU BENCH.**

(Judicial Department)

**Cr. Misc: B.A No. 485-B/2023.**

**Qudrat Ullah alias Ghani**

**Vs**

**The State .**

**JUDGMENT**


Date of hearing 06.10.2023 .

For petitioner:- Mr. Rizwan Ullah Wazir ,  
Advocate.

For State:- Hafiz Muhammad Hanif, AAG.

For respondent:- Mr. Inam Ullah Khan Marwat,  
Advocate.

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 **FAZAL SUBHAN, J.-** Having failed to get the concession of bail from the learned Court below, petitioner Qudrat Ullah alias Ghani son of Mir Sahib Khan seeks his release on bail through the instant bail application, in case FIR No. 323 dated 25.7.2023, registered under sections 324 PPC of police station Lakki City, District Lakki Marwat.

2. Facts emanating from the FIR are that on 25.7.2023 complainant Saad Ullah Khan son of Hukam

Khan reported the matter that on 24.7.2023, he along with his son were coming to their village and when they reached within the limits of village Begu Khel, it was about 12:30 hours when Qudrat Ullah alias Ghani son of Mir Sahib Khan (petitioner) duly armed with pistol, was present and on their arrival he immediately started firing upon his son Hafiz Zeeshan and as a result he was hit on the elbow of right hand, whereafter the accused decamped from the spot of occurrence. Motive for the occurrence was mentioned that accused was enticing his son for boy-play, whereas his son was reluctant to have friendship with him. On the report lodged by Saad Ullah Khan in emergency room City Hospital, the present case was registered.

3. Arguments of learned counsel for petitioner, learned counsel for complainant assisted by learned AAG for the State heard and record perused.

4. After tentative assessment of record it is clear that the occurrence has allegedly taken place on 24.7.2023 at 12:30 hours while the report was lodged on 25.7.2023 at 10:20 hours, thus there is a delay of almost 22 hours in lodging the report for which at present no plausible explanation has been given. Though the injury-sheet and MLC of the injured are available on file, however, at the

time of search of the spot neither any blood was recovered nor any empties were taken into possession. Except the complainant no other independent witness is cited to support the prosecution version. Investigation in the case is already completed and as per card of arrest the age of petitioner is also 15/16 years and, therefore, in view of section 2 (h) of the Juvenile Justice System Act, 2018 the petitioner having not attained the age of 18 years is a juvenile and under section 6 sub-section (1) of the said Act, he is to be released on bail, if he is not involved in any heinous offence defined in section 2 (g) of the Act. In this view of the matter a case for grant of bail is made out in favour of the petitioner. In identical ruling of this Court reported in **"Muhammad Ali Shah Akhtar alias Ali-Vs-The State and another"** reproted in **2018 YLR Note 73**, it was held that:-

"Having heard the arguments of learned counsel for the parties, it appears from the record that no doubt the role of effective fire shot on the person of the injured complainant, has been specifically assigned to the petitioner coupled with the fact that the incident is of a broad day-light and reported with promptitude at 10.30 hours, but the non-recovery of blood, any crime empty from the spot, the medical examination of the injured complainant at 10.30 hours i.e. 10 minutes prior to the registration of the FIR, and blackening/ charring marks observed by the medical Officer on his wound as well as keeping in mind the motive advanced by complainant, are

the disturbing circumstances giving rise to a doubt in a prudent mind about the mode and manner of the occurrence as alleged by the complainant.”

Similarly, in the case of Bakhtiar-Vs-The State and another, reported in 2017 YLR 2526 Peshawar (Bannu Bench) this Court while considering the bail petition of a juvenile offender has held that:-

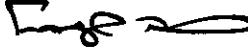
“The bare reading of proviso quoted above depicts the intention of the legislature that a child who is below 15 years is to be granted bail notwithstanding the nature of the charge. Case of the petitioner is not falling within the above category as his age has been mentioned 14 years in Card of Arrest prepared by the Investigation Officer on 20.8.2016. Till date none from the complainant or prosecution has challenged the same before any forum. Without dilating upon the merits of the case the petitioner is entitled to the grant of bail under Section 10 of juvenile Justice System Ordinance 2000.”

5. For the above mentioned reasons, the case of petitioner is found to be one of further inquiry into his guilt as well as he deserves his release on bail on the ground of juvenility, hence this petition is accepted and petitioner is released on bail provided he furnishes bail bonds of Rs. 5,00,000/-(Rupees Five Lac) with two local and reliable


sureties each in the like amount to the satisfaction of trial  
Court/ Illaqa Judicial Magistrate/ MOD concerned.

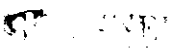

These are the detailed reasons of my short order of  
even date.

**Announced.**  
**06.10.2023.**  
Ihsan.\*/-

  
**J U D G E.**

(D.B)  
Hon'ble Mr. Justice Fazal Subhan.

  
12/10/2023

  
12 OCT 2023  
  
Fazal Subhan