

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Mazhar Alam Khan Miankhel
Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Petition No.500 of 2020

*(Against order dated 15.4.2020 passed by
the Peshawar High Court Bannu Bench in
Crl. Misc. No.BA No.142-B/2020)*

Kamran Ullah

...Petitioner(s)

Versus

The State & another

...Respondent(s)

For the Petitioner(s): Mr. Talat Mehmood Zaidi, ASC
Mr. Muhammad Sharif Janjua, AOR

For the State: Mr. Anis M. Shahzad, ASC
with Umar Nawaz, ASI

For the Complainant: Mr. Dil M. Khan Alizai, ASC

Date of hearing: 06.07.2020.

ORDER

Qazi Muhammad Amin Ahmed, J.- Aftab Alam, 35/36, left home at about 7:00 p.m.; his wife, as stated by him, expected her to return shortly thereafter, however, upon failure to return, became suspicious and informed her brother-in-law at 2:00 a.m.; his mobile handset did not respond multiple attempts. Search started in the morning to find the dead body lying in a pool of blood in a field; he was done to death by unknown assailant(s) with fire shots; stricken by shock, the family was clueless about the motive behind the crime. As investigation progressed, the petitioner was taken on board as a suspect on the basis of complainant's supplementary statement dated 26.2.2020 wherein Sajid Ali Shah was also arrayed as an accomplice for the murder in the backdrop of a monetary dispute; the latter pursuant to a disclosure, led to the recovery of a .30 caliber pistol, a weapon that did not forensically tally with the casings secured during

spot inspection. Semi burnt cell phone handsets used by the deceased, concealed underneath the soil, were recovered at petitioner's instance vide inventory dated 25.2.2020.

2. Heard. Record perused.

3. Be that as it may, complainant's strong belief about petitioner's culpability notwithstanding, evidentiary value of various pieces of prosecution evidence hitherto collected has to survive judicial scrutiny to cross the barriers of rules of evidence; the exercise has admittedly not yet commenced. Prosecution for the present is not possessed with any digital proof to establish substantive nexus between the deceased and the handsets. Call Detail Record (C.D.R.) purportedly suggestive of conversation between the deceased and the accused shortly before his death, nonetheless, sans contents/details thereof. Without prejudice to the merits of the prosecution case, to be essentially settled by the trial Court, nonetheless, petitioner's case squarely falls within the remit of subsection 2 of section 497 of the Code of Criminal Procedure 1898; a case for his release on bail stands made out. Criminal Petition No.500 of 2020 is converted into appeal and allowed; petitioner/appellant shall be released on his furnishing bonds in the sum of Rs.500,000/- with two sureties each in the like amount to the satisfaction of the learned trial Court/duty Judge.

Judge

Judge

Islamabad, the

6th July, 2020

Not approved for reporting

Azmat/-