

**JUDGMENT SHEET**  
**PESHAWAR HIGH COURT, PESHAWAR**  
*(Judicial Department)*

**Cr.M (B.A) No. 489-P/2022**

**ORDER**

Date of hearing: **11.04.2022**

**Petitioner: (Danish Khan Afridi) by M/s Hussain Ali, Shabbir Hussain Gigyani & Sajeed Khan Afridi, Advocates.**

**Respondent: - (The State) by Mr. Gul Daraz Khan, Advocate and (Complainant) by Mr. Sher Afzal Khan Marwat, Advocate.**

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**MOHAMMAD IBRAHIM KHAN, J.-**

Having being named and held for questioning as an accused in case FIR No. 229/2021 dated 04.04.2021 charged under sections 302-324-148-149-109-427-353-34-337D/337 F(iii)-338-C and 120-B PPC registered at Police Station Lahor District Swabi, the petitioner Danish Khan Afridi son of Abdul Latif Afridi had earlier applied for post arrest bail before the court of learned Additional Sessions Judge-II, Swabi where he failed to achieve the solicited relief. His unsuccessful attempt of getting bail is followed by this petition with similar prayer for his release through bail, notice whereof was

given to the complainant Abdul Majid Afridi and the State.

2. The occurrence is reported by Abdul Majid Afridi son of Aftab Afridi with venue and reporting time as 19:00 hours. He recounted that his father Aftab Afridi then posted as Judge Anti-Terrorism Court-I at Swat had gone to Maqsood Abad (Peshawar) to attend the marriage ceremony of Adnan Sami. and on their way back alongwith his family members Mst. Zainab Bibi (wife), Mst. Kirran (daughter in law/wife of complainant) and Muhammad Sanan (grandson) alongwith constable Zakir on the driving seat and the gunner constable Daud on front seat were travelling through motorcar bearing registration No. AA-4871/Peshawar (black in color) approaching Islamabad on motorway followed by other car bearing registration No. 4470 wherein, the travelers besides complainant Abdul Majid Afridi, his maternal uncle son Zahoor Shah son of Shahzad Gul and aunt son Adil were coming behind them and when reached rest area “\_\_\_\_\_” near Swabi Interchange, it was 18:10 hours chased by a white corolla passed through sitting therein

Danish Khan Afridi (petitioner) and Jamal Afridi alongwith two other unknown persons while in another car (black in color) Abid, Muhammad Shafiq and two other unknown persons catching them and passed by, the unknown person could be identified, all of them resorted to firing upon the motorcar wherein, the complainant's father, mother, wife and son besides, the driver and gunner were seated became a prey of indiscriminate fire shots resulting in death of all family members while the driver and gunner received grave injuries. Amongst the deceased, wife of complainant Mst. Kirran was pregnant for about six months. The co-conspirators who have abetted the crime are Jamal R/O Maqsood Abad, Jaag Kaley presently in Germany and Abdul Latif Afridi resident of Hayatabad, Peshawar.

3. Having heard arguments at length, learned counsel for petitioner relied upon the judgments reported as **2021 SCMR 2011 Resham Khan and another vs The State through Prosecutor General Punjab, Lahore and another, 2017 P Cr.LJ 1092 Mukhtar Ahmad vs the State & two others, 2021**

SCMR 63 Jahanzeb and others vs State through AG Khyber Pakhtunkhwa, Peshawar & another, 2021 SCMR 138 Sajid vs Samin ur Rehman (deceased) through his father & others, 2021 SCMR 1295 Saeed Yousaf vs the State and another, 2021 SCMR 130 Khair Muhammad and another vs The State through P.G Punjab & another, 2021 YLR 73 Abdul Rasheed vs the State, PLD 2021 Supreme Court 738 Muhammad Sarfaraz Ansari vs the State and others, PLD 2021 Supreme Court 927 Muhammad Arshad Nadeem vs the State, 2022 SCMR 419 Naeem Khan vs the State & others and 2022 SMCR 1998 Sikandar Hayat vs the State & another. Inversely learned counsel for respondents relied upon PLD 1985 Supreme Court 402 Awal Gul vs Zavar Khan and other, PLD 2022 Islamabad 13 Mian Muhammad Nawaz Sharif vs the State through Chairman NAB, 2012 SCMR 707 Muhammad Afzal vs the State, 2013 SCMR 385 Ghulam Ahmed Chishti vs the State & another, 2015 P Cr.LJ 1083 Abdul Latif vs the State & another, 2020 P Cr.LJ Note 195 Khan Afsar vs the State & another, 2019

**YLR Note 76 Irfan Ullah vs the State & another, 2021 YLR 2185 Gul Baz vs the State & another, PLD 2021 Supreme Court 738 Muhammad Sarfaraz Ansari vs the State & another, 2021 P CrLJ 195 Muhammad Irfan vs The State & another and 2021 P CrLJ 1811 Muhammad Sher Khan vs the State & another.**

4. In order to find out room and pave way for grant of bail making out a case for further inquiry on account of benefit of doubt at bail stage, learned counsel for petitioner tried to bring this case within the corners of four versions. The first one is the contents of first information report secondly, the confessional statement of co-accused without naming the petitioner thirdly, report of the motorway police officials and Rescue 1122 fourthly, mobiles data collected by the Investigation Officer both of the complainant remotely present at the relevant time of occurrence and likely of the petitioner being present at Peshawar in his office. Then there are affidavits of Barrister Sarwar Muzaffar Shah son of Muzaffar Shah, Sajeed Khan Afridi Advocate son of Hukam Khan and Tariq Afghan Advocate son of

Rasheed Khan, amongst them Barrister Sarwar Muzaffar and Sajeed Khan Afridi, Advocates are his counsels, who have stated about the presence of accused petitioner at the relevant time in his office situated at Haroon Mention Khyber Bazaar, Peshawar. Out of abundance of caution each version requires recording of evidence before the learned trial court. At present on tentative assessment there is high risk to deliver any findings lest it would be highly detrimental not only for the party who has suffered human losses of near and dear ones and at the same time for the petitioner may or may not be saddled for the most ghastly crime ever committed.

5. Irrespective of the role of petitioner charged for attributing general firing, this is happening in which a senior District & Sessions Judge and Presiding Officer of Anti-Terrorism Court Swat, his wife, pregnant daughter in law having a womb in her uterus with fully developed body parts and minor grandson have been mercilessly showered with bullets killing them and injuring police officials in a barbarous manner. The killers are like wild feral animals. The occurrence in the manner it

happened is condemned as morally wrong even if it be outcome of personal blood feud vengeful hostile acts.

**6.** The petitioner has remained in absconsion for almost eight months and sixteen days, who according to the affidavits is a practicing lawyer at Peshawar and was aware of being indicted in the case yet avoided to face the consequences even if he posed his innocence, which is one of the aspect to decline him the liberty at this stage.

**7.** This court while dismissing this application, prior in time consulted the learned counsel appearing on behalf of complainant that if at all the trial be put on speedy track whether he will have any objection whose reply is that the complainant party is also interested in early decision in deciding the wheel of fortune of the accused-petitioner and other accused who are behind the bars. Thus to facilitate the trial for an early disposal let, the learned trial court shall fix the hearings at least once in five days.

**8.** Copy of this order be sent to the learned trial court so as to follow stringently the directives contained in this order.

**Announced**  
**11.04.2022**

**J U D G E**

**\*Muhammad Fiaz\* (S.B.)** Hon'ble Mr. Justice Mohammad Ibrahim Khan, J