

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:
Justice Naeem Akhtar Afghan
Justice Shahid Bilal Hassan

Criminal Petition No.556 OF 2024
(On appeal against the judgment dated 06.05.2024 passed by the
Peshawar High Court, Peshawar in CrI. M.B.A. No. 1612-P of
2024)

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|-------------------------|--------------------------------|------------|-------------|
| Zeeshan S/o Gul Hussain | ... | ... | Petitioner |
| <u>Versus</u> | | | |
| The State & another | ... | ... | Respondents |
| For the petitioner: | Mr. Astaghfirullah, ASC | | |
| For the State: | Mr. Noroz Khan, Addl.A.G., KPK | | |
| For the Complainant: | Mr. Hussain Ali, ASC | | |
| Date of hearing | : | 26.07.2024 | |

O R D E R

NAEEM AKHTAR AFGHAN, J. The petitioner is seeking post-arrest bail u/s 302/324/427/34 PPC in FIR No. 1039/23 lodged with Police Station (**PS**) Faqirabad, Peshawar on 20 August 2023 by *Qaiser Jamal s/o Syed Jamal (Complainant)* with regard to the occurrence of 15:45 pm dated 20 August 2023 with the statement that on the property of *Aukaf* situated in *Qazi Abad* he has a dispute with his relative *Anwar* and case is pending before the Court. At 11:00 am the *Aukaf* employees and police came and got the construction work stopped and the *Baithek* was locked by the *Aukaf* employees. When the police and *Aukaf* employees returned, the petitioner alongwith co-accused *Sher Ali* and *Shahab Kamal* came with firearms, they broke the lock of *Baithek* and started hue and cry with inhabitants of the *Mohallah*. In the meanwhile he alongwith his brother *Shahid Jamal* and sons *Haider Jamal* and *Kashif Jamal* reached there. They were fired upon by the above four accused with intention to commit their murder. Due to firing of the accused, his brother *Shahid Jamal* received firearm injury on his neck while his son *Haider Jamal* received injury on his left hand. Both the injured were taken to the hospital. The injured *Shahid Jamal* succumbed to the injuries on his way to the hospital.

2. After hearing learned counsel for the petitioner, learned Additional Advocate General, KPK and learned counsel for the complainant, we have

perused the available record which reveals that the petitioner remained absconder for almost seven months.

3. Neither injury statement of the alleged injured *Haider Jamal* was prepared nor there is any medical report about his alleged firearm injury. No recovery of firearm has been effected from the petitioner during investigation. On completion of investigation *Challan* has been submitted and the trial has commenced. Charge has been read over to the petitioner and co-accused *Syed Shahab Ali Shah* by the Trial Court but so far statements of the prosecution witnesses have not been recorded at the trial.

4. Co-accused *Syed Shahab Ali Shah* has already been granted post-arrest bail by this Court vide order dated 4 December 2023.

5. On the basis of tentative assessment of the material available on record the case against the petitioner falls within the ambit of further inquiry.

Due to grant of post-arrest bail to co-accused *Syed Shahab Ali Shah* by this Court, on the basis of rule of consistency as well, the petitioner is entitled for grant of post-arrest bail.

6. In view of the above circumstances, mere absconsion of the petitioner for almost seven months cannot be made a basis to refuse him post-arrest bail.

7. For the above reasons, while granting leave, the petition is converted into appeal and same is accepted. The petitioner is granted post-arrest bail u/s 302/324/427/34 PPC in FIR No. 1039/23 PS Faqirabad, Peshawar subject to furnishing surety in the sum of Rs.200,000/- with PR bond of like amount to the satisfaction of the Trial Court.

The observations made hereinabove are tentative in nature and same shall not influence merits of the case at the trial.

Judge

Judge

Islamabad
26.07.2024

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NOT APPROVED FOR REPORTING