

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

**MR. JUSTICE MAQBOOL BAQAR
MR. JUSTICE MUNIB AKHTAR
MR. JUSTICE QAZI MUHAMMAD AMIN AHMED**

Criminal Petition No.73-P of 2021

*(On appeal against the judgment dated 19.03.2021
passed by the Peshawar High Court Peshawar in
Cr. Misc. B.A. No.663-P/2021)*

Abdul Razzaq ... **Petitioner**

Versus

The State ... **Respondents**

For the Petitioner : Syed Abdul Fayaz, ASC
For the State : Mr. Shumail Aziz,
Advocate General, KP with Zahid, I.O.
:
For the Complainant : In person.

Date of Hearing : 17.09.2021

ORDER

Qazi Muhammad Amin Ahmed, J. - Zahid Shah, 18/19, was spotted dead on 17.1.2021 within the precincts of Police Station Landi Kotal, District Khyber; his uncle Shogi Muhammad reported the incident to police without mentioning the accused or motive for the crime. Autopsy conducted at 10:45 a.m. on 18.1.2021 noted two firearm entry wounds on the skull, inflicted within the preceding 9 to 18 hours; as the investigation progressed, the petitioner was hauled up as a suspect on the basis of statements of Iqrar Hussain and Roman PWs, recorded as late as on 29.1.2021; according to the witnesses, the petitioner had borrowed a .30 caliber pistol which he subsequently returned to them; the pistol was produced by the witnesses to the police and it was forensically found wedged with the casings, secured from the spot. The High Court considered the evidence, sufficient to

constitute "*reasonable grounds*" and declined bail vide impugned order dated 19.03.2021.

2. Heard. Record perused.

3. Be that as it may, the question as to whether .30 caliber pistol presented to the police by the prosecution witnesses, shown to have ejected casings of the fatal shots can be attributed to the petitioner so as to conclusively saddle him with the culpability of crime in the absence of any other evidence is certainly an issue that needs to be settled after recording of evidence. In the school leaving certificate, petitioner's date of birth is recorded as 6.9.2004, bringing his status within the remit of juvenility with concomitant concessions available to him under the law. Even otherwise, investigation being complete, petitioner's continuous detention is not likely to improve upon prosecution's case; a case for his release on bail stands made out. Petition is converted into appeal and allowed; the petitioner/appellant shall be released, pending his trial, upon furnishing bond in the sum of Rs.500,000/- with one surety in the like amount to the satisfaction of the learned trial Court.

JUDGE

JUDGE

JUDGE

Islamabad, the
17th September, 2021
Azmat/*