

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

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

Criminal Petition No.640 of 2020

*(Against order dated 5.6.2020 passed by the Peshawar High Court
Peshawar in Cr. Misc. (BA) No.1446-P/2020)*

Kamran

....Petitioner(s)

Versus

Kamran Malik and another

....Respondent(s)

For the Petitioner(s): Mr. Hussain Ali, ASC

For the State: Ms. Aisha Tasneem, ASC
with Siraj, I.O.

Date of hearing: 30.07.2020.

ORDER

Qazi Muhammad Amin Ahmed, J.- Waseem Aslam, Waqas Aslam and Siddique Aslam, real brothers *inter se*, were shot dead at 8:30 p.m. on 14.1.2020 within the precincts of Police Station Bhana-Marri Peshawar; Kamran Malik, complainant survived the assault unscathed. Muhammad Ishaq, co-accused, is assigned fatal shots in the deadly assault while the petitioner, no other than his son, is blamed to have exhorted him to take on the deceased. A previous brawl is cited as motive for the crime.

2. Heard. Record perused.

3. Awful magnitude of violence and resultant loss of life notwithstanding, nonetheless, the petitioner though statedly present with other family members outside his home where the deceased had gone to lodge complaint for the previous incident, is not attributed any harm to them, as on prosecution's own showing, he allegedly instigated his father, otherwise authoritatively placed on the parental rung. Question as to whether, instead of taking deadly initiative himself, he preferred to persuade his father for the misadventure, a role, contrary to the traditions, brings the accusation within the ambit of subsection 2 of section 497 of the Code of Criminal Procedure 1898 and thus, would be best settled after

recording of evidence, therefore, he cannot be kept behind the bars merely as a measure of punishment. Investigation being complete, petitioner's continuous detention is not likely to serve any useful purpose, beneficial to the prosecution. Criminal petition is converted into appeal and allowed; petitioner shall be released on bail subject to 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.

These are the reasons of our short order of even date, reproduced below:

"For reasons to follow, this petition is converted into appeal and allowed; petitioner shall be released on bail subject to furnishing bond 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

30th July, 2020

Not approved for reporting

Azmat/-