

## **IN THE SUPREME COURT OF PAKISTAN**

(Appellate Jurisdiction)

### **Present:**

Justice Syed Hasan Azhar Rizvi  
Justice Naeem Akhter Afghan

### **Criminal Petition No.1055 of 2025**

(On appeal against the order dated 28.04.2025 of the Peshawar High Court, Abbottabad Bench passed in CrI.Misc. (BA) No.193-A of 2025)

Binyameen

...Petitioner(s)

### **Versus**

The State through A.G. KPK & another

...Respondent(s)

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

For the State: Mr. Altaf Khan,, Addl.A.G., KPK  
A/w. Muhammad Asif, DSP  
Arshad, Inspector

For the Complainant: Mr. Muhammad Munir Peracha, Sr. ASC

Date of Hearing: 28.08.2025

## **ORDER**

**Naeem Akhter Afghan, J.-** The petitioner is seeking post-arrest bail under sections 302, 324, 34 of the Pakistan Penal Code (**PPC**) read with section 15 of the Khyber Pakhtunkhwa Arms Act, 2013 in FIR No.765/2024 registered with police station (**PS**) Khanpur, District Haripur by the complainant Arif Mehmood on 19<sup>th</sup> September 2024 with the allegations that the petitioner alongwith co-accused made firing due to which his brother Tariq Mehmood died on the spot; Mst. Nagina Bibi also sustained firearm injury; Mst. Hanifa was assaulted with dandas while minor Aaliyan, aged about 12/13 years, also received firearm injury on his leg.

2. Record transpires that after arrest of the nominated accused, including the petitioner, investigation was conducted. During investigation, .30 bore pistol was recovered from the petitioner. 21 crime empties of .30 bore pistol were also recovered from the place of occurrence. Five .30 bore pistols were also recovered from the other nominated co-accused. All the recovered six .30 bore pistols with 21 crime empties were sent to the Forensic Science Laboratory, Khyber Pakhtunkhwa and report of the firearm expert was availed. Nominated co-accused Sheraz, Imran, Munawwar, Sarfraz and Mubashir have been granted bail by the Peshawar High Court, Abbottabad Bench *vide* judgment dated 15<sup>th</sup> November 2024 while the petitioner and co-accused Faqram, Afzaal, Ibrahim and Rawal have not been granted concession of bail.

3. After hearing learned counsel for the petitioner, learned counsel for the complainant and the learned Additional Advocate General, Khyber Pakhtunkhwa we have perused the available record. In the FIR it has been alleged by the complainant that his brother deceased Tariq Mehmood was fired upon by Faqram s/o Aslam Afzaal, Binyameen s/o Faqram, Ibrahim s/o Akram and Raawal s/o Ehsan. The deceased had received four firearm injuries on his body. The report of the firearm expert confirms that no crime empty was fired from the .30 bore pistol allegedly recovered from the petitioner. The complainant has not attributed firearm injuries of Mst. Nagina and minor Aaliyan to the petitioner.

4. In view of the above circumstances, it is yet to be determined at the trial as to whether the petitioner had shared common intention with the nominated co-accused in committing the murder of deceased Tariq Mehmood, causing firearm injuries to Mst. Nagina and minor Aaliyan and he is vicariously liable for the occurrence.

5. *Challan* has already been submitted in November 2024 but till date the prosecution has not examined any witness at the trial. The petitioner being in judicial custody is no more required for any further investigation or probe. The allegations levelled in the FIR by the complainant against the petitioner are yet to be proved at the trial. According to settled principle of law, bail cannot be withheld as mere punishment.

6. On the basis of tentative assessment of the material so far available on record, the case against the petitioner falls within the ambit of further inquiry.

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 under sections 302, 324, 34 of the PPC read with section 15 of the Khyber Pakhtunkhwa Arms Act, 2013 in FIR No.765/2024 of PS Khanpur, District Haripur subject to his furnishing bail bonds in the sum of Rs.200,000/- (Rupees Two Hundred Thousand only) with two sureties in the like amount to the satisfaction of the trial court.

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

**Islamabad**

28<sup>th</sup> August 2025

Atif/-

**APPROVED FOR REPORTING**