

Judgment Sheet

IN THE PESHAWAR HIGH COURT,  
ABBOTTABAD BENCH.

*JUDICIAL DEPARTMENT*

**Cr.M/B.No.1013-A/2018.**

**JUDGMENT**

*Date of hearing:* 07/01/2019

*Petitioner (Qazi Aziz urRehman) By Qazi  
Muhammad Arshad,  
Advocate.*

*State by: Sardar Muhammad Asif, Assistant  
AG along with Hammad Hussain  
Shah Gilani, AAG.*

**SYED MUHAMMAD ATTIQUE SHAH, J.-**

Petitioner Qazi Aziz-ur-Rehman S/o QaziFazal-ur-Rehmanseekshis release on bail in case FIR No. 03/2018dated 19.12.2018 under Section 161 PC read with Section 5(2) of Prevention of Corruption Act, Police Station ACE, Abbottabad.

**3.** Brief facts of the case are that on 19.12.2018, complainant Aurangzeb Abbasi submitted an application to the Incharge Anticorruption, Abbottabad alleging therein that Engineer Qazi employed in Local

Government Department has demanded bribe of Rs. 25000/- from him on account of preparing a bill of the work done by the complainant. Complainant expressed his intention to trap the accused/ petitioner. On the basis of said application, FIR was registered and the complainant was produced by the Anticorruption authorities for his statement under Section 164 Cr.P.C. where after learned Senior Civil Judge along with the Anticorruption staff conducted raid but the accused/petitioner was found absent from his office. The complainant telephonically contacted the accused/petitioner who asked that on 21<sup>st</sup>, he would prepare his bill. Therefore, the matter was kept pending till 21<sup>st</sup>, on which date again the complainant along with learned Senior Civil Judge, Abbottabad and the Anticorruption authorities visited the office of accused/ petitioner. The currency notes were earlier marked by the learned Senior Civil Judge, which were recovered from the pocket of the accused/ petitioner.

4. Arguments heard and record gone through.

5. Record reveals that upon application of the complainant, the anticorruption authorities, without any sort of verification or inquiry, straightaway resorted to lodge FIR against the accused/petitioner. As per record, the alleged offence was committed on 21.12.2018, while surprisingly the FIR was lodged prior to the commission of alleged offence on 19.12.2018. The complainant though alleged that the amount was demanded by the accused/petitioner as bribe, however, the learned Judicial Officer during trap proceedings neither could notice the conversation between the complainant and the accused/petitioner nor passing of alleged bribe amount. The sole fact that the alleged marked currency notes were recovered from the pocket of accused/petitioner, would not be sufficient to hold that he had received bribe from the complainant.

**6.** Moreover, Section 161 PPC is bail-able in nature while punishment provided for the offence under Section 5(2) of the Prevention of Corruption Act, 1947 is imprisonment up to seven years or fine or both. Thus not only the offence does not fall within the prohibitory clause of Section 497 Cr.P.C. but the punishment provided for the offence in alternate as fine, also makes the case of the accused/petitioner fit for grant of bail.

**7.** In view of the above facts and circumstances of the case, the petitions in hand stands accepted. Resultantly, petitioner is admitted to bail on furnishing bail bonds in the sum of Rs. 200,000/- (two hundred thousand) with two sureties each in the like amount to the satisfaction of Illaqa/Duty Judicial Magistrate concerned. Sureties must be local, reliable and men of means.

These are the reasons for short order of the even date.

**Announced.**  
**Dt.07.01.2019.**

**J U D G E**

*Tufail\*/*

*Hon'ble Justice Syed Muhammad Attique Shah.*