

Judgment Sheet

PESHAWAR HIGH COURT, ABBOTTABAD BENCH

JUDICIAL DEPARTMENT

Cr.Misc. (BA) No. 884-A/2020

JUDGMENT

Date of hearing.....12-10-2020.....

Petitioner (s)...(Mst. Safina Shah) by Mr. Iftikhar Ahmad Tanoli, Advocate.....

Respondent (s).....(The State etc) by Ms. Fizza Ahmad Nizami, Advocate (State counsel) and Mr. Maqbool Hussain, Advocate, for the complainant.....

SHAKEEL AHMAD, J.- Petitioner, Mst. Safina Shah, has approached this court for post arrest bail till final conclusion of trial in Crime No. 1119 dated 03.08.2020 registered against her under Sections 302 / 109 PPC read with section 15 AA KPK at Police Station City, Haripur.

2. The allegation against the petitioner is that she alongwith her co-accused Munir Khan, Raees, Ahad Ali and Ihsan Ali committed murder of son of the complainant namely, Wajid Ali, on 03.08.2020 at 09.45 hours near 'Jahaz' Chowk, Haripur by firing at him. She was placed under arrest on 05.08.2020. Vide order dated 28.08.2020, petitioner was declined post arrest

bail by the learned Additional Sessions Judge-I, Haripur, hence, the instant petition.

3. Arguments heard. Record perused.

4. Admittedly, it is un-witnessed crime. The complainant of the instant case has charged Mst. Momina as an accused on the basis of disclosure made to him by the employees of Rescue 1122. Perusal of the statements of the said employees of Rescue 1122, Hammad Mustafa and Shahid Khan reflect that when they attended the deceased, then injured, Wajid Ali, he was in senses and he disclosed them the name of the accused Momina for causing him bullet injury. It is observed that both of them had disclosed in their statements that in the meanwhile two boys had arrived at the spot, however, statements of Muhammad Farooq and Muhammad Akram, who had arrived at the spot stated in their statements recorded under section 161 Cr.P.C that the deceased, then injured, was not in a position to talk. On 12.08.2020 supplementary statement of the complainant was recorded by the I.O, wherein, he disclosed that the actual name of Mst. Momina is Safina Bibi Shah daughter of Mussawar Hussain. No doubt, it was alleged that the crime pistol was recovered from possession of the petitioner on

05.08.2020, it was sent to FSL alongwith crime empty recovered from the spot and its report was received in positive , however, I leave the evidentiary value of this piece of evidence to be adjudged by the learned trial Court after recording evidence of the prosecution.

5. At the moment, the tentative assessment of the material available on record leads me to the conclusion that the case of the petitioner squarely falls within the ambit of subsection (2) of Section 497 Cr.P.C, thus, she has made out a case for grant of bail.

6. For what has been discussed above, this petition is allowed and the petitioner is directed to be released on bail provided she furnishes bail bonds in the sum of Rs.2,00,000/- (Rupees Two lakhs), with two sureties each in the like amount to the satisfaction of *Illaqqa / Duty* Judicial Magistrate, who shall ensure that the sureties are local, reliable and men of means.

Above are the detailed reasons for short order of this Court of even date.

Announced:
Dt.12.10.2020.

J U D G E

M.Saleem/PS

(SB) Mr. Justice Shakeel Ahmad