

**IN THE PESHAWAR HIGH COURT, MINGORA BENCH /
DAR-UL-QAZA, SWAT**

CRIMINAL MISCELLANEOUS APPLICATION (B.A.) NO. 239 -M OF 2024.

Nawab Khan ...VIS... The State

Presented by Muhammad Iqbal Khan Advocate on

Behalf of the petitioner. Checked and found complete. Be entered in the relevant Register and fixed before the Additional Registrar on 16-04-24. Record be requisition and inform all concern for the date fixed. Inform all

concerned

Dated: 09/04/2024

[Signature]
Additional Registrar,
Peshawar High Court, Mingora
Bench/Dar-ul-Qaza, Swat.

IN THE PESHAWAR HIGH COURT, MINGORA BENCH/ DAR-UL-QAZA, SWAT
OBJECTION SLIP

Nawab Khan VERSUS The State & 1 Other

Receipt No. 2021-4372

Both the Counsel

1 The P/A of the counsel engaged is not attested/ signed by all petitioners/ Appellant.


Reader

Returned with the objections mentioned above. Case be re-submitted on or before 19-04-2021

objection removed.

Muhammad Iqbal Khan Adv.




Additional Registrar
PHC, Mingora Bench

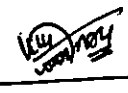
Dated: 08-04-2021

CHECK LIST

1.	Case Title:	Yes	No
2.	Case is duly signed.	/	
3.	The law under which the Petition preferred has been mentioned.	/	
4.	Approved file cover is used.	/	
5.	Affidavit is duly attested and appended.	/	
6.	Case and Annexures are properly paged & number according to index.	/	
7.	Copies of Annexures are legible and attested. (If not, then better copies duly attested have been annexed).	/	
8.	Certified copies of all the requisite documents have been filed.	/	
9.	Certificate specifying that no case on similar grounds was earlier submitted in this court, filed.	/	
10.	Case with in time.	/	
11.	The value for the purpose of Court fee and jurisdiction has been mentioned in the relevant column.		
12.	Court fee in shape of Stamp Paper is affixed, (For Writ Rs.500/- For other required).		
13.	Power of Attorney is in proper form.	/	
14.	Memo of addresses filed.	/	
15.	List of Books mentioned in the Petition.		
16.	The requisite number of spare copies attached: (Writ Petition-3, Nos. Civil Appeal (SB-1, SB-2) Civil Revision (SB-1, SD-2).	/	
17.	Case (Revision/Appeal/Petition etc.) is filed on the prescribed form.	/	
18.	Power of Attorney is attached by Jail Attorney (for Jail Prisoners only).	/	

It is certified that formalities/documentations required in column 2 to 18 above, have been fulfilled.

Name: M. Iqram Khan

Signature: 

Dated: 08/04/21

FOR OFFICE USE ONLY

Case No.

Case Received.

Complete in all respect: Yes/No (if No the ground)

.....

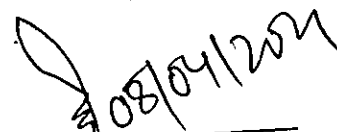
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Date in Court.

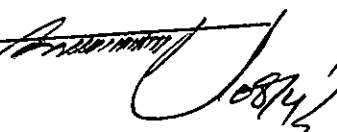
FILED TODAY

08 APR 2021

Additional Registrar

Signature 
(Reader)

Dated 08/04/21

Countersigned: 
(Additional Registrar)

BEFORE THE PESHAWAR HIGH COURT MINGORA
BENCH (DARUL QAZA SWAT)

B.A No. 239 -M of 2021

Nawab Khan.....Accused/ Petitioner

VERSUS

The State & others..... Respondents

Index

S. No.	Description of Documents	Annex	Pages
1.	Application and certificate		1-4
2.	Memo of Addresses		5
3.	Copy of the FIR with better copy	A	6-7
4.	Copy of application and order dated 06/04/2021	B	8-13
5.	Notice		14
6.	Wakalat Nama		15

Accused/ Petitioner
Through



MUHAMMAD IKRAM KHAN
Advocate, High Court

Cell No. 0342-4144963

Dated: 08/04/2021

FILED TODAY

08 APR 2021

Additional Registrar

Copy Received for
AAG

Sign.....
Date.....08-04-2021

Re-Filed Today

09 APR 2021

Additional Registrar

BEFORE THE PESHAWAR HIGH COURT MINGORA
BENCH (DARUL QAZA SWAT)

①

B.A No. 239 -M of 2021

Nawab Khan S/o Umar Badshah,

R/o Paraw Shah, Police station Dir, District Dir Upper.

....ACCUSED/ PETITIONER

VERSUS

1. The State through AAG.

2. Badshah Wali S/o Muhammad Amin,

R/o Paraw Shah, Police station Dir, District Dir Upper.

....RESPONDENTS

CASE FIR No.89, Dated: 16/03/2021

Under Section: 324/337F6/F3/34 PPC 15AA,

Police Station: Dir City District: Dir Upper

**APPLICATION UNDER SECTION 497 Cr.P.C FOR THE
RELEASE OF THE ACCUSED/PETITIONER TILL THE FINAL
DECISION OF THE CASE.**

Respectfully Sheweth:

1) That the accused/petitioner is falsely charged in the above noted FIR. (Copy of FIR is attached is annexure "A").

2) That the accused/petitioner applied for bail before Additional session's Judge-I Dir Upper, which was declined through an order dated 06/04/2021.

FILED TODAY

08 APR 2021

Additional Registrar

(Copy of application and order dated 06/04/2021 is attached as annexure "B").

3) That petitioner was no alternate remedy but to approach this court on the following grounds.

GROUND:

I. That the accused/petitioner is innocent and falsely implicated by the complainant after fully consultation and deliberation.

II. That there is no eye, independent and impartial direct as well as some circumstantial evidence available on records to connect the accused/petitioner with the offence.

III. That no incriminating recovery has been affected from the accused/petitioner and the whole case is concocted one.

IV. That the petitioner has no genesis of criminal history being non-convict and non-record holder.

V. That the accused/petitioner has not made any confession despite the fact that he remained in police custody for sufficient period.

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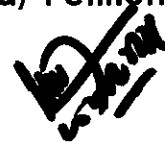
VI. That the accused/petitioner is ready to furnish reliable surety bonds to the satisfaction of this Hon'ble court and he will appear before the competent court of law, when & where he was required.

VII. That any other ground not specifically mentioned in the grounds of instant bail application will also be argued with the permission of this Hon'ble court at the time of arguments.

It is there for humbly prayed that acceptance of this application the accused/petitioner may be released on bail till the final disposal of the case.

Accused/ Petitioner

Through



MUHAMMAD IKRAM KHAN

Advocate

FILED TODAY

08 APR 2021

Additional Registrar

BEFORE THE PESHAWAR HIGH COURT MINGORA
BENCH (DARUL QAZA SWAT)

4

B.A No. 239 -M of 2021

Nawab Khan.....Accused/ Petitioner

VERSUS

The State & others..... Respondents

CERTIFICATE

As per information of clients that no other such like bail petition has earlier been filed before this Hon'ble court or any other competent court. Moreover copy of the notice along with relevant necessary documents sent to the complainant. (Receipt of legal notice is attached herewith).



ADVOCATE

FILED TODAY

08 APR 2021

Additional Registrar

BEFORE THE PESHAWAR HIGH COURT MINGORA
BENCH (DARUL QAZA SWAT)

5

B.A No. 238 -M of 2021

Nawab Khan.....Accused/ Petitioner

VERSUS

The State & others..... Respondents

MEMO OF ADDRESSES

PETITIONERS

Nawab Khan S/o Umar Badshah,

R/o Paraw Shah, Police station Dir, District Dir Upper.

RESPONDENTS

1. The State through AAG.

2. Badshah Wali S/o Muhammad Amin,

R/o Paraw Shah, Police station Dir, District Dir Upper.

....**RESPONDENTS**

FILED TODAY

08 APR 2021

Additional Registrar

Accused/ Petitioner

Through



MUHAMMAD IKRAM KHAN

Advocate, High Court

ابتدائی اطلاع نسبت جرم قابل دست اندازی پولیس رپورٹ شدہ زید ذفرہ ۱۵۴ مجموعہ ضابطہ فوجداری

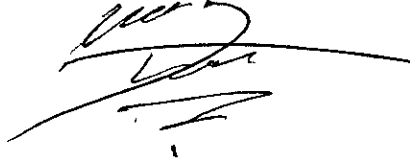
تھانہ	دیرٹی	ضلع	دیر بالا
علت نمبر	89	تاریخ وقت وقوعہ	08:10 وقت 16/3/021
تاریخ وقت رپورٹ	08:50 وقت 16/03/021	چاکیڈگی پرچہ	216/03/021 وقت 09:30 بجے
سکونت اطلاع دہندہ مستغیث	مجروح بادشاہ ولی ولد محمد امین سکنہ پڑاؤ شاہ ڈیر		
مختصر کیفیت جرم (معدفعہ) حال اگر کچھ لیا گیا ہو	PPC 324-337F(6) F(3)-34/ 15AA		
جائے وقوعہ فاصلہ تھانہ سے اور سمت	زیر تعمیر کھنڈر نزد خانہ مجروح فواد علی بمقام پڑاؤ شاہ بفاصلہ 1/2 کلومیٹر جانب شرق از تھانہ		
نام و سکونت ملزم	(1) خائستہ رحمن ولدنا معلوم (2) عمر بادشاہ ولدنا معلوم (3) سید نواب (4) بخت بادشاہ پسران عمر بادشاہ ساکنان پڑاؤ شاہ ڈیر		
کاروائی جو تفتیش کے متعلق کی گئی اگر اطلاع درج کرنے میں توقف ہوا ہو تو وجہ بیان کرو	بہر سیدگی تحریری مراسلہ مقدمہ قائم کیا گیا		
تھانہ سے روانگی کی تاریخ وقت	بہ سبیل ڈاک		

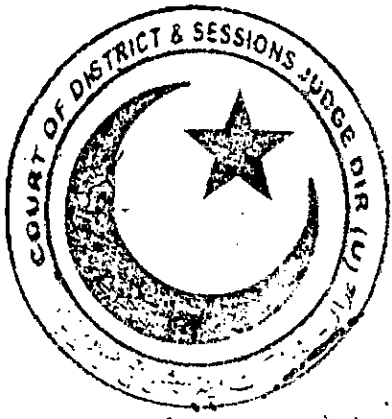
ابتدائی اطلاع نیچے درج کرو

بوقت صدر بجے ایک تحریری مراسلہ منجانب منجانب سمیع اللہ خان ASI انچارج کچولٹی ہسپتال دیر بدست کنسٹیبل نور زادہ موصول ہو کر مضمون ذیل ہے۔ بخدمت افسر انچارج تھانہ دیر سٹی امروز دوران موجودگی کچولٹی ڈیوٹی دیہ پڑاؤ شاہ ڈیر مجروحین کو کچولٹی پہنچائے گئے مجروح مدعی بالائیوں رپورٹ کرتا ہے۔ کہ امروز میں حسب معمول گھر خود سے ڈیوٹی کیلئے نکل کر آ رہا تھا۔ جبکہ ہتھیجا ام مجروح فواد علی دیگر کسان اپنے زیر تعمیر کھنڈر میں کام کر رہے تھے۔ جو نہی بوقت بالا میں مذکورہ زیر تعمیر کھنڈر کے قریب پہنچا تو مسیمان (1) خائستہ رحمن ولدنا معلوم (2) عمر بادشاہ ولدنا معلوم (3) سید نواب (4) بخت بادشاہ پسران عمر بادشاہ نے ہم ہر بہ ارادہ قتل اسلحہ آتشینوں سے فائرنگ شروع کئے مسمی سید نواب، ولد عمر بادشاہ کے فائرنگ سے میں بائیں ٹانگ پر لگ کر شدید زخمی ہوا۔ جبکہ خائستہ رحمن ولدنا معلوم کے فائرنگ سے ہتھیجا ام فواد علی بھی دائیں ٹانگ پر لگ کر زخمی ہوا۔ وقوع ہذا ہمارے علاوہ مسیمان (1) ریاض الحق ولد قاسم خان (2) انور علی ولد شیر عمر خان (3) ہدایت الحق ولد نجم خان ساکن پڑاؤ شاہ کا چشم دید ہے۔ وجہ عناد ہتھیجا ام مجروح فواد علی اور ملزمان بالا کے مابین تنازعہ کھنڈر ہے۔ میں اپنے اوپر اور ہتھیجا ام کے اور پر بہ ارادہ قتل فائرنگ کر کے زخمی کرنے کا ہر چار ملزمان بالا دعویٰ ہوں۔

رپورٹ کرتا ہوں غور ہوئے العبد نشان انگشت بادشاہ ولی ولد محمد امین خان میں مسمی مجروح فواد علی ولد رحمت زادہ چچا ام مسمی بادشاہ ولی کی رپورٹ بالا کی تائید کرتا ہوں۔ العبد نشان انگشت فواد علی کاروائی پولیس حسب گفتہ رپورٹ سائیل درج بالا کیگئی۔ صحت رپورٹ کو درست تسلیم کر کے زیر رپورٹ خود ثبت انگشت کیا۔ جبکہ رپورٹ کی تائید میں ہتھیجا ام فواد علی نے نشان انگشت ثبت کیا۔ مجروح کا ہوش اس کے متعلق ڈاکٹری سرٹیفکیٹ لف ہذا کیگئی۔ مجروحین کا نقشہ ضرر بمطابق زخمت علیحدہ علیحدہ مرتب کر کے واپس ان ڈیوٹی ڈاکٹر محمد خان صاحب کیگئی۔ مضمون رپورٹ سے سردست ملزمان بالا کو

مرتب جرم بالا کا پا کر برخلاف ملزمان بالا مراسلہ زیر دفع بالا ضبط تحریر میں لا کر بغرض قائمی مقدمہ بدست کنسٹیبل نورزادہ
شک نمبر 1032 ارسال تھان ہے۔ مقدمہ درج کر کے تفتیش کیا جاوے۔ مراسلہ گزارش ہے۔ sd شفیع اللہ خان
مورخہ 16-3-021 کاروائی تھانہ پس آمدہ مراسلہ حرف بہ حرف درج رجسٹر ہو کر پرچہ مجرم بالا برخلاف ملزمان بالا چاک
کیا جا کر نقل پرچہ معہ مراسلہ ہوش و حواس سرٹیفکیٹ بغرض تفتیش حوالہ شعبہ تفتیش کی جا کر افسران بالا کو اطلاع دی جا رہی
ہے۔ پرچہ گزارش ہے۔





دستخط صاحب سینی جج ماہیہ

Page B
8

شہاب خان ولد عمر بادشاہ سانی پڑاؤ شاہ سوانہ دیہ

R. Khan
31.3.024

نام

سے کار

بادشاہ ولی ولد محمد امین سانی پڑاؤ شاہ سوانہ دیہ

موجودہ سینی جج 21/3/16 اور 334/34/37 F2
1588

درویش محمد (دوسری سانی سوانہ)
درجہ اولیٰ سوانہ سوانہ

ATTESTED

7-4-2021

ذرا عالی: خلیفہ سینی

(1) سنی سوانہ (دوسری سانی سوانہ) بالائے سوانہ

نیزہ جوڈیشل سوانہ

(2) سنی سوانہ (دوسری سانی سوانہ) بالائے سوانہ

(3) سنی سوانہ (دوسری سانی سوانہ) بالائے سوانہ

(4) سنی سوانہ (دوسری سانی سوانہ) بالائے سوانہ

(5) سنی سوانہ (دوسری سانی سوانہ) بالائے سوانہ

(6) سنی سوانہ (دوسری سانی سوانہ) بالائے سوانہ

(7) سنی سوانہ (دوسری سانی سوانہ) بالائے سوانہ

(8) سنی سوانہ (دوسری سانی سوانہ) بالائے سوانہ

(9) سنی سوانہ (دوسری سانی سوانہ) بالائے سوانہ

(10) سنی سوانہ (دوسری سانی سوانہ) بالائے سوانہ

صفحہ 2



9

بسم اللہ الرحمن الرحیم
محکم دہلی کے ایک زمیندار کے لئے
میں نے اس کے لئے ایک زمیندار کے لئے

بسم اللہ الرحمن الرحیم
محکم دہلی کے ایک زمیندار کے لئے
میں نے اس کے لئے ایک زمیندار کے لئے

R.L.
31-3-21

بسم اللہ الرحمن الرحیم
محکم دہلی کے ایک زمیندار کے لئے
میں نے اس کے لئے ایک زمیندار کے لئے

بسم اللہ الرحمن الرحیم
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ATTESTED
7-4-2021

بسم اللہ الرحمن الرحیم
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میں نے اس کے لئے ایک زمیندار کے لئے

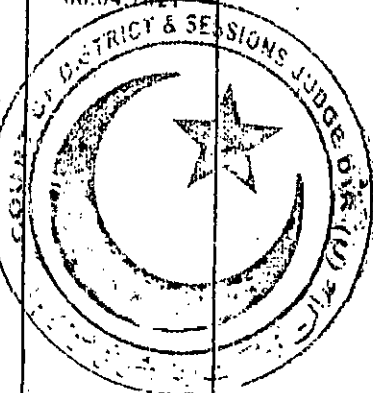
بسم اللہ الرحمن الرحیم
محکم دہلی کے ایک زمیندار کے لئے
میں نے اس کے لئے ایک زمیندار کے لئے

1
 IN THE COURT OF
ADDITIONAL SESSIONS JUDGE-I/JUDGE MCTC,
 DIR UPPER

10

Nawab Khan.....VS..... State

FIR # 89 Dated 16.03.2021 U/S 324/337F6-F3/34 PPC/15AA PS Dir City

Serial No. and Date of order of proceedings	Order or other Proceedings with Signature of Judge or Magistrate & that of parties or counsel when necessary.
1.	2.
<p>Or-----05 06.04.2021</p>  <p>ATTESTED 7.4.2021</p> <p>VIA 06.04.2021</p>	<p>1. APP Mujeeb-ur-Rehman for state present. Petitioner/accused Nawab Khan s/o Umar Badshah resident of Paraw Shah, Tehsil Dir, District Dir Upper, through his counsel Mr. Syed Jahangir Shah advocate present. Complainant namely Badshah Wali s/o Muhammad Amin Khan r/o Paraw Shah, Tehsil Dir District Dir Upper, alongwith his counsel namely Ihsan Ullah advocate present.</p> <p>2. Accused/petitioner named above is seeking his post arrest bail in case FIR No. 89 dated 16.03.2021 U/S 324/337F6/F3/34 PPC/15AA of P.S Dir city.</p> <p>3. As per the contents of Murasila and FIR the accused/petitioner is one of the three accused persons, who have been charged for attempt at the life of complainant and his nephew namely Fawad Ali by firing at them, as a result of which the complainant and his nephew received firearm injuries. The occurrence has been seen by complainant/injured as well as Riazul Haq, Anwar Ali and Hidayat Ullah. Motive behind the occurrence is dispute over structure of building between Fawad Ali and accused named above. He charged above named persons as</p>

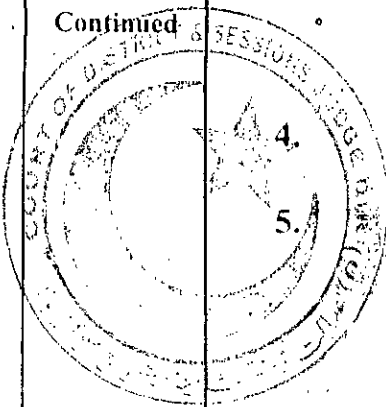
2
IN THE COURT OF
ADDITIONAL SESSIONS JUDGE-I/JUDGE MCTC,
DIR UPPER

11

Nawab Khan.....VS..... State

FIR # 89 Dated 16.03.2021 U/S 324/337F6-F3/34 PPC/15AA PS Dir City

Or-----05
Continued



accused for commission of firing and injuries to him and his nephew. Hence, the instant case FIR.

Arguments heard and record perused.

Perusal of the record would reveal that though the two co-accused have been released on bail by the court of learned Additional Sessions Judge/IZQ-II, Dir Upper vide order dated 26.03.2021 but the case of present accused/petitioner is not at par with them. The reasons for which the co-accused have been released on bail are that at the time of disposal of bail application of co-accused medico legal reports (MLRs) of the injured persons were not available on record. Whereas, such MLRs are available on record and prima facie corroborate stance of prosecution as taken in the initial report. The other reason for release on bail of the said co-accused was that no empty shell was recovered from the places of presence of those accused. Whereas, near the place of present accused/petitioner, an empty casing of 30 bore pistol has been recovered.

6. The arguments of learned counsel for the accused/petitioner that the injury have been caused on non vital part of body without repetition, has not been considered as a valid ground for leading case of an accused to further inquiry by the

ATTESTED
7-4-2021

7-4-2021

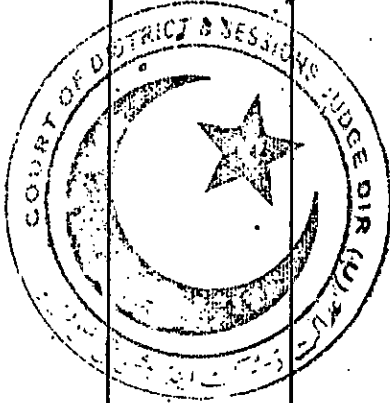
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IN THE COURT OF
ADDITIONAL SESSIONS JUDGE-1/JUDGE MCTC,
DIR UPPER

12

Nawab Khan.....VS..... State

FIR # 89 Dated 16.03.2021 U/S 324/337F6-F3/34 PPC/15AA PS Dir City

Or-----05
Continued



ibid draws no anatomical distinction between vital or non-vital parts of human body. Once the trigger is pressed and the victim is effectively targeted, "intention or knowledge" as contemplated by the section ibid is manifested; the course of a bullet is not controlled or steered by assailant's choice nor can he claim any premium for a poor marksmanship. Exercise of discretion by the High Court being well within the bounds of law calls for no interference. Petition fails. Leave declined."

Similarly, the contention of learned counsel for the accused/petitioner regarding presence of charring marks in the MLRs cannot be taken account of at this stage by seeking guidance from case law reported as 2019 P.Cr.LJ Note 117 [Peshawar (Bannu Bench)]. The Hon'ble High court has held as under;

"... contention of the petitioners regarding presence of charring marks on the body of the deceased despite the distance between accused and deceased was shown as four paces essentially touched the merits of the case---- Deeper appreciation or evaluation of material at bail stage was not permissible for the grant or refusal of bail and only tentative assessment was to be made."

ATTESTED
7-9-2021

06.04.2021

5
IN THE COURT OF
ADDITIONAL SESSIONS JUDGE-I/JUDGE MCTC,
DIR.UPPER

13

Nawab Khan.....VS..... State

FIR # 89 Dated 16.03.2021 U/S 324/337F6-F3/34 PPC/15AA PS Dir City

Or-----05
Continued

8. In view of the above at the present the accused/petitioner seems to be connected with the commission of reported crime. Moreover, case of the accused/petitioner falls within in the ambit of prohibitory clause of section 497 Cr. PC.

In the light of what has been stated above, the application in hand stands dismissed.

10. Copy of this order be placed on police as well as judicial file. File of this court, after its necessary completion and compilation, be consigned to record room.

Announced
06.04.2021

SHABBIR MUHAMMAD DURRANI
Additional Sessions Judge-I/IZQ/Judge MCTC,
Dir Upper

ATTESTED

7-6-2021

No	799
Dated of Application	7-4-2021
Name of Applicant	Shabbir Muhammad Durrani
Ward	600
Fee	2/4
Signature of Applicant	[Signature]
Date of Preparation	7-4-2021
Date of Delivery	7-4-2021

695

For RGL53129215

Station *Badli Shah* Rs. *50/-*
uninsured letters of not more than
the initial weight prescribed in the
Post Office Guide or on which no
acknowledgement is due.

Rs. *50/-*
Ps. *Sof-*
S/O M. A. W. H.

a registered*
ed to *R/O Parau Shah* Date-stamp

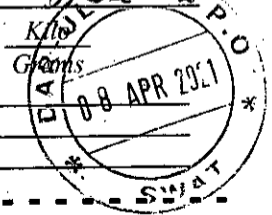
Police

*Write here "letter", "postcard", "packet" or "parcel"

of Receiving Officer with the word "insured" before it when necessary.

insured for Rs. (in figures) *Station* *Di* (in words) *Di*

insurance fee Rs. *Rs. P.P.* Weight (in words) }
Name and address of sender {



NOTICE (1) — The Post Office is not responsible for loss or damage in the case of Inland registered articles, unless they are also insured.

(2) — The special conditions and restrictions of insurance which will be found in the current edition of the Post Office Guide are binding upon every sender of an insured postal article by virtue of regulations prescribed under the Pakistan Post Office Act, 1953.

BEFORE THE PESHAWAR HIGH COURT MINGORA
BENCH (DARUL QAZA SWAT)

14

B.A No. 239 -M of 2021

Nawab Khan.....Accused/ Petitioner

VERSUS

The State & others..... Respondents

NOTICE

To,

Badshah Wali S/o Muhammad Amin,

R/o Paraw Shah, Police station Dir, District Dir Upper.

Please take notice I am filling bail petition against the respondents on behalf of petitioner in the Peshawar High Court Mingora Bench Dar-UI-Qaza swat.



MUHAMMAD IKRAM KHAN
Advocate High Court

FILED TODAY

08 APR 2021

Additional Registrar

