

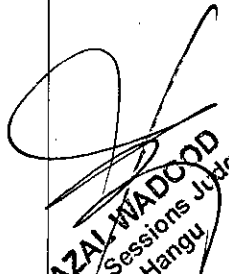
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IN THE COURT OF ADDITIONAL SESSIONS JUDGE ORAKZAI, AT BABAR MELA

BA No. 124/4 of 2022

Wali Ullah Vs State

Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order	05/01/2023	<p>Mr. Zahoor Rehman advocate represented accused/petitioner; complainant remained absent despite service; whereas, Naid Wali APP for State is in attendance. This is the disposal of captioned post arrest Bail Application, submitted by accused/petitioner Wali Ullah.</p> <p>2. Isar Khan complainant being father of deceased Shahid Khan reported the incident that he was informed about the death of his son, who was on duty as Watchman in coal mine. The complainant has no enmity with anybody in the area and has lodged report against unknown persons vide FIR No. 32 dated 16-03-2021 under Section 302 of Pakistan Penal Code, 1860 in Police Station Kalaya, Orakzai. Later on, the complainant recorded his statement under Section 164 of the Code of Criminal Procedure, 1898 and charged 04 persons as accused. Two of them have been acquitted vide Judgement dated 30-10-2021 by the Court of Hon'ble, the District &amp; Sessions Judge, Orakzai. Rest of the accused including petitioner were declared proclaimed offender. The District Police Kohat has arrested one of these two proclaimed offenders who was transmitted to District Orakzai and is behind the bar. On arrest, he presented instant post arrest bail petition, which is under consideration.</p> <p>3. Arguments of the learned counsel for the accused/petitioner and learned APP for the State heard and record perused.</p> <p>4. The tentative assessment of record reveals that four persons have been charged in present case with similar general role without specification of any act attributed to anyone of the accused. Two persons out of four accused</p>

  
**SAYER FAZAL WADOOD**  
Additional District & Sessions Judge  
Orakzai at Hangu

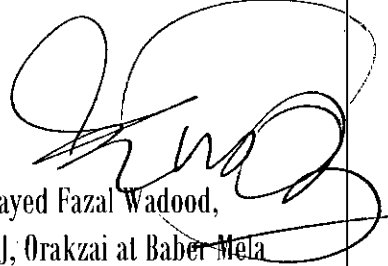
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have already been acquitted on conclusion of trial. Therefore, rule of consistency can be attracted for considering plea of bail of petitioner. The single point of difference is that of absconsion but mere abscondence is no ground to refuse bail to the accused/petitioner particularly, when it called for further inquiry. Hon'ble the Peshawar High Court, Peshawar has settled in "Kaleem Anwar vs State" case reported as 2020 YLR, Note 149, that accused could not be kept in jail when his role was at par with that of acquitted co-accused and his guilt was to be adjudged on the same evidence, on the basis of which co-accused were acquitted. Similarly, it has further been determined that acquittal of co-accused with identical role and on the same set of evidence renders the case of other co-accused as that of further inquiry (2019 PCr.LJ Note-136).

5. For what has been discussed above, petitioner is admitted to bail subject to furnishing bail bonds to the tune of Rs. 150,000; with two sureties, each in the like amount; to the satisfaction of this Court.

6. File of this Court be consigned to District Record Room after its necessary completion and compilation within the span allowed for; whereas, record be returned with the photocopy of this Order.

7. Announced in open Court.

  
Sayed Fazal Wadood,  
AD&SJ, Orakzai at Baber Mela