

Or 07
06-02-2020

Present:

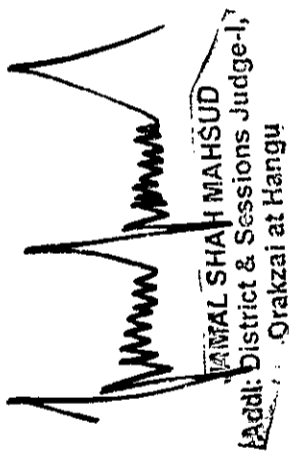
All 06 accused/petitioners on interim bail along with Zahoor Ur Rehman Advocate
Complainant along with Fawad Hussain Advocate
APP Syed Aamir Shah for State

This order shall dispose of **pre-arrest bail** application of the 06 accused/petitioners namely (1) **Sultan Akbar** s/o Mir Jaan, (2) **Kalat Khan** s/o Gul Muhammad, (3) **Irfan Ullah** s/o Abdul Rehman, (4) **Muhammad Daood** s/o Sultan Akbar, (5) **Abdul Salam** s/o Gulmat Khan and (6) **Abdul Jalal** s/o Laiq Shah; all belonging to caste Mishti and residents of Orakzai; who are charged in case **FIR No. 47** dated **11-12-2019** u/ss **387/365/511/148/149 PPC** of **PS Lower Orakzai**.

Facts of the case, according to FIR, are that; on 07-12-2019, the accused/petitioners along with another co-accused attempted to abduct the complainant Habib Nawaz, who was working as contractor on road with laborers. The accused/petitioners were allegedly armed with Kalashnikovs; the complainant was allegedly beaten up by the accused party but was saved from abduction due to intervention of one Khanadan. The accused/petitioners allegedly took away forcefully one pickup vehicle and two tractors, with tar-coal plants, with them. The matter was reported to the police on the next date of alleged occurrence and the FIR was registered after three days of report.

Arguments of counsels for the parties and APP for State heard, and available record perused; the tentative assessment of which, for the purpose of deciding instant petition, shows that:

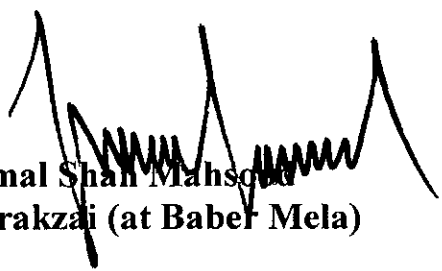
1. The matter was reported to the police with delay of almost one day. This delay has not been explained.
2. The allegedly snatched tractors are shown to have been recovered outside the houses of two co-accused. The places of recovery were not in exclusive control of any of the accused.


JAMAL SHAH MAHSUD
Addl. District & Sessions Judge-I,
Orakzai at Hangu

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3. There is no medical report in respect of the alleged beating and violence committed by accused party on the complainant.
 4. The statement of Mr. Khandan has not been recorded, while statements of the other alleged eyewitnesses have been recorded with delay.
 5. There is admittedly civil dispute in respect of payment of money between the parties. Hence, probability of false implications, based on malafide, for settling civil dispute through criminal process cannot be ruled out.
 6. The accused/petitioners joined investigation since grant of interim BBA on 02-01-2020, but so far, no progress has been made in investigation against them.
 7. The allegations against the accused/petitioners call for further inquiry into their guilt. No useful purpose could be served by sending the accused/petitioners behind bars only to be released on regular bail.

In light of the above points involved, I am of the opinion that malafide on part of complainant cannot be ruled out; the case of accused/petitioners also calls for further inquiry into their guilt. Resultantly, the instant pre-arrest bail petition of accused Sultan Akbar, Kalat Khan, Irfan Ullah, M. Daood, Abdul Salam and Abdul Jalal, is **accepted** and the ad-interim pre-arrest bail already granted to all the accused/petitioners is confirmed on the existing bail bonds. Copy of this order be placed on record. Record be returned while this file be consigned to record room after necessary completion and compilation.

Announced
06-02-2020


Jamal Shan Mahsood
ASJ-I, Orakzai (at Baber Mela)