

IN THE COURT OF ASGHAR SHAH SESSIONS
JUDGE, ORAKZAI AT BABER MELA

Bail Application No : 61/4 of 2020
Date of Institution : 14.09.2020
Date of Transfer-In : 16.09.2020
Date of Decision : 23.09.2020

NAIMAT ULLAH KHAN VS THE STATE

ORDER

DPP, Umar Niaz for State and Mr. Sana Ullah Khan Advocate for accused/petitioner present. Hassan Khan Advocate also submitted Wakalatnama in favour of accused/petitioner. Arguments heard and record gone through.

2. Accused/petitioner, Naimat Ullah Khan seeks post-arrest transit bail u/s 86 Cr.P.C read with section 497 Cr.P.C in case FIR No. 343, dated 19.05.2017, registered U/S 395/412 PPC at Police Station Kot Momin Sargodha, Punjab, wherein he alongwith co-accused are charged for commission of dacoity of Rs. 45950/- and cattle amounting to Rs. 875000/- at gun point.

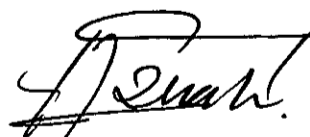
3. From the arguments and record available on file, it reveals that the accused/petitioner being charged in the above cited case was arrested u/s 54 Cr.P.C by the local police of Upper Orakzai Ghiljo and daily diary no. 5 dated 12.09.2020 to this effect was recorded. The accused was sent to judicial lock-up by the Judicial Magistrate-I Orakzai on 12.09.2020 and

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Orakzai at Mangou
23/9/20
Sana Ullah

till date, he is behind the bar. The Superintendent sub-jail Orakzai at Hangu through his letter dated 15.09.2020 addressed to the DPO, Sargodha Punjab requested for deputation of police guard for the transfer of the accused/petitioner. Since the transfer of accused to another province require certain formalities through Home Department, therefore, sufficient time should be provided to them to proceed with their transfer proceedings but, however, the accused/petitioner also cannot be put behind the bar for an indefinite period. At the moment, accused/petitioner is behind the bar for almost 11 days. Therefore, the petition at the moment is not sustainable on account of accused being charged for the heinous offence, falling in the prohibitory clause of section 497 Cr.P.C and is accordingly stand dismissed. The prosecution is provided 10 days time from today for shifting of accused/petitioner failing which the fresh petition could be filed accordingly.

4. File be consigned to Sessions Record Room for after further necessary compilation and completion.

Announced
23.09.2020



ASGHAR SHAH
Sessions Judge, Orakzai
at Baber Mela