

BBA No. 90/BBA of 2020

Or 04  
09-10-2020

**Present:**

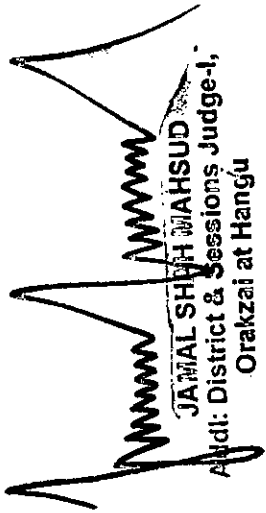
All 03 accused/petitioners on interim bail, along with Abid Ali, Advocate  
APP Nisar Ahmad for State

Petitioners (01) **Munawar Khan** s/o Abdul Qayum, (02) **Ismail Shah (Ismail)** s/o Ghafil Ur Rehman, (03) **Nabi Ur Rehman** s/o Syed Rehman; all belonging to Stori Khel caste, tapa Anjani; r/o village Anjani, Lower Orakzai are seeking **Bail Before Arrest** in case **FIR No. 106** dated **27-09-2020** registered in **Police Station Lower Orakzai**, under sections **506/148/149 PPC**.

The allegation against accused/petitioners is that they, along with 15 other co-accused, went to the house of complainant, Ajmal Khan s/o Saeed Ullah, at 21:15 hrs. on 26-09-2020, and made aerial firing in order to criminally intimidate the complainant - in order to make him vacate his house. It was alleged that a civil dispute in respect of the said house was already pending before civil court and injunction order has been passed in favour of present accused party. The present accuse/petitioners alleged malafide on part of complainant and local police. Hence the instant petition.

Arguments of counsel for the accused/petitioners and APP for State heard; the available record perused. Tentative assessment of which, for the purpose of deciding instant petition, shows that:

1. A total of 18 persons, all armed, have been nominated in an FIR registered with unexplained delay of 12 hours. The occurrence allegedly took place at night but no source of light was given in FIR. In such a scenario, it is impossible to identify 18 persons at

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

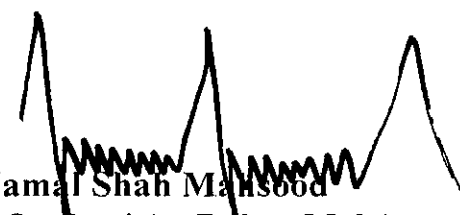
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considerable distance. A torch was introduced subsequently during investigation, however, the same would not give credence to the allegation as made in FIR.

2. One of the accused had filed an application before the DPO, Orakzai (endorsement no. 203/R, dated 28-09-2020), pleading false nomination on account of previous enmity and also alibi of some of the accused. The copy of application is placed on file. The IO has not brought anything on the record in respect of these pleas of accused despite the application marked by the DPO.
3. Civil dispute between the parties is admitted by the prosecution.
4. The offence alleged does not fall under prohibitory clause of section 497 CrPC, and the allegation calls for further inquiry into the guilt of accused.
5. The accused/petitioners joined investigation since grant of interim BBA on 01-10-2020, but so far, no material evidence has been brought on record against them.

In these circumstances, malafide on part of complainant and local police cannot be ruled out. Resultantly, the instant pre-arrest bail petition of accused/petitioners **Munawar Khan, Ismail Shah (Ismail) and Nabi Ur Rehman**, is **accepted** and the ad-interim pre-arrest bail already granted to them 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**  
**09-10-2020**

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