

BBA No. 94/BBA of 2020

Or 03  
16-10-2020

**Present:**

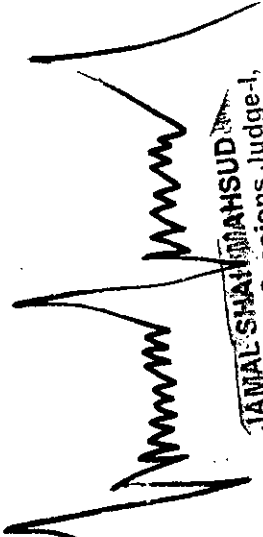
All 07 accused/petitioners on interim bail, along with Abid Ali Advocate  
APP Nisar Ahmad for State

Petitioners **(01) Ghafil Rehman** s/o Muhammad Rafiq, **(02) Gul Nawaz** s/o Khalil Ur Rehman, **(03) Sulaiman Khan** s/o Ashor Khan, **(4) Jamshid Khan** s/o Khalil Ur Rehman, **(5) Munir Khan** s/o Muqarab Khan, **(6) Alamzeb** s/o Ghafil Rehman and **(7) Noor Muhammad** s/o Abdul Wadood; all belonging to Stori Khel caste, 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 11 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 - and 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 had 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 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/petitioners, Muhammad Alamzeb, claimed alibi and statements of 02 independent witnesses have been recorded by


  
**JAMIL SHAH**
  
 District & Sessions Judge-I,
   
 Orakzai at Hangju

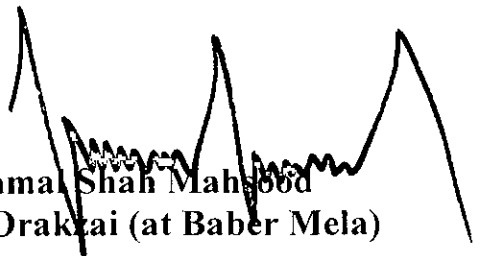
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IO in this respect, which show that said accused/petitioner was not present at the spot of occurrence at relevant time.

3. Civil dispute between the parties is admitted by the prosecution. Malafide, on part of complainant, for falsely involving his rivals in a criminal case cannot be ruled out.
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. No incriminating article has been recovered against any of the accused.
5. The accused/petitioners joined investigation since grant of interim BBA on 12-10-2020, but so far, no material evidence has been brought on record against them.
6. All other accused of the case have already been released on pre and post arrest bails. Rule of consistency would also apply in favour of accused/petitioners.

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 **Ghafil Rehman, Gul Nawaz, Sulaiman Khan, Jamshid Khan, Munir Khan, Alamzeb and Noor Muhammad**, 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**  
**16-10-2020**

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