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IN THE COURT OF SHAUKAT AHMAD KHAN,
SESSIONS JUDGE, ORAKZAI AT BABER MELA

Bail Application No : 43/4 of 2023

Date of Institution : 09.05.2023

Date of Decision : 15.05.2023

SYED HABIB HUSSAIN VS THE STATE

ORDER

DPP Umar Niaz for the State and Hamid Sarfaraz Advocate for accused/petitioner present. Complainant Shah Gul Hussain present in person. He does not want to engage a private counsel. Arguments heard and record gone through.

2. The accused/petitioner, **Syed Habib Hussain** s/o Syed Gul Qasim seeks his post-arrest bail in case FIR no. 02, dated 30.01.2023, u/s 302/324/34 PPC and 15AA of Police Station Kurez Boya, wherein as per contents of FIR, the injured/complainant Shah Gul Hussain on 30.01.2023 at about 1930 hours at THQ Hospital Kalaya with a dead body of his brother, Imam Ali made a report to the local police to the fact that on that day at about 1730 hours his brother Syed Imam Ali while on way for offering prayer towards the mosque, was going ahead of them, when reached the spot of occurrence, the accused Tahir Hussain duly armed, already present on the


Shaukat Ahmad Khan
District & Sessions Judge,
Orakzai at Baber Mela

15/05/23

(6)

spot, made firing at Imam Ali, as a result of which he got hit and died on the spot whereas the present accused/petitioner along with co-accused armed with knives attacked them and caused injuries to him (complainant), Syed Muhammad Sajideen and Syed Muhammad Ameer Jaan. Hence, in the present FIR.

3. It is evident from the record that though the present accused/petitioner is directly nominated in the FIR and the offences u/s 302/324 PPC carry capital punishment; however, the present accused/petitioner has neither been shown armed with any weapon nor he is charged for participating in the murder of Imam Ali, while the question of vicarious liability for causing murder of Imam Ali is a question of further inquiry which will be determined during the trial. So far causing injuries to Muhammad Ameer Jaan, Muhammad Sajideen and the complainant, is concerned, no specific role is attributed to the present

Shaukat Ahmad Khan
District & Sessions Judge,
Orakzai at Baber Mela

5/2/23

accused/petitioner. Moreover, the offences u/s 337-A(i) and 337-A(ii) PPC for which the accused/petitioners are charged, carry punishment for less than 10 years and do not fall within the prohibitory clause of section 497 CrPC. Moreover, nothing incriminating has been recovered from

(7)


possession or on pointation of the present accused/petitioner. Furthermore, the co-accused with similar roles have already been released by this court vide order dated 09.03.2023; therefore, the present accused/petitioner is also entitled to the concession of bail on the basis of rule of consistency.

4. Hence, in view of what is discussed above, bail petition in hand stands accepted and the present accused/petitioner is admitted to the concession of bail provided he submits bail bonds in sum of Rs. 200,000/- with two sureties each, each in the like amount to the satisfaction of Judicial Magistrate concerned/MOD. Sureties must be local, reliable and men of means.
5. Copy of this order placed on judicial/police

file. Consign.

Pronounced
15.05.2023




SHAUKAT AHMAD KHAN
Sessions Judge, Orakzai
at Baber Mela