

IN THE COURT OF ADDITIONNAL SESSIONS JUDGE-II, ORAKZAI

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BA NO.13/19

AMIR JANAN VS STATE

ORDER

04/04/2019

Abid Ali advocate, learned counsel for the accused/ petitioner present. Zuhaib Sher APP for the state present.

The accused/petitioner Amir Janan s/o Itibar Shah r/o Chappar Mishti Central Orakzai Khel District Orakzai seeks his post arrest bail arrested vide information report bearing Endorsement No. 3118/APA/L (Kalaya), dated 15/12/2016.

Brief facts of the case are that the accused/petitioner was handed over on 13/12/2016 to Political Administration Lower Orakzai by I.S.I and was put behind the Bar at Agency Head Quarter for further investigation. The accused was investigated and after interrogation the accused/petitioner was released on bail on 28/12/2016 by the Political Administration Orakzai vide information report bearing No. 3353/APA/L dated 28/12/2016, however the accused/petitioner was again taken into custody and is behind the bar hence, the accused/petitioner submitted post arrest bail application.

Arguments of the learned counsel for the accused/petitioner and APP for the state heard and record perused.

The tentative assessment of record necessary for the disposal of the instant bail application would transpire that neither any recovery of any arms and ammunition has been affected from the possession of accused nor on his pointation. The record does not reflect any material evidence to connect the accused with the commission of offence. The only allegation against the accused/petitioner is that, that the accused/petitioner is suspected that despite having knowledge of concealment of arms at compound at Chapper Mishti he did not informed the LEAs. The fact that whether the accused/petitioner had any knowledge about the alleged arms, is a question to be determined at trial stage after recording evidence which makes the case of accused/petitioner one

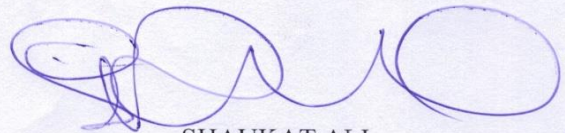
of further inquiry. Furthermore, the offence for which the accused/petitioner is charge entails punishment less than 10 years which does not fall within prohibitory clause of section 497 Cr.PC wherein the grant of bail is a rule and refusal is an exception; however there are no exceptional grounds to refuse bail to the accused/petitioner. The accused/petitioner is behind the bar for more than two years and keeping in view the peculiar facts and the allegation against the accused, further keeping the accused behind the bar would be a pre-trial punishment. The case of the accused/petitioner is thus arguable for the grant of bail.

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In view of the above facts the bail petition of the accused/petitioner is accepted and the accused/ petitioner is ordered to be released on the bail subject to furnishing surety bonds in the sum of Rs. 100, 000/- with two sureties each in the like amount to the satisfaction of this court. The Sureties must be local and reliable persons.

File be consigned to the District Record Room Hangu after necessary completion and compilation.

Announced
04/04/2019



SHAUKAT ALI
Additional Sessions Judge,
Orakzai, at Hangu