

BA No. 51/BA of 2020

Or 04
27-04-2020

Present:

Syed Muzahir Hussain Advocate and Abid Ali Advocate for
accused/petitioners
complaint along with Haseeb Ullah Khan Advocate
DPP Umer Niaz Khan for State

The accused/petitioners (1) **Amjid** s/o Habib Khan and
(2) **Sobidar Rehman**; both belonging to Mishti caste;
residents of Chappar Mishti, Nari Kanda, Lower Orakzai are
seeking **post-arrest bail** in **case FIR no. 25** dated
10-04-2020, u/ss **437/427/452/148/149 PPC** registered in PS
Lower Orakzai.

The facts of the case, according to the FIR, are; that the
SHO was on patrol of the area when he received information
that some people have burnt down the house of complaint,
Muhammad Ikhlaq, in village Narai Kanda, Mishti Mela;
that the SHO reached the spot with a police party and saw
the house on fire; that the complaint met the SHO on spot
and reported that he was present in the said house with his
family members, when 19 persons (including
accused/petitioners Amjid and Sobidar Rehman) entered
into his house bearing arms and forcefully evicted the
inmates and then set the house on fire; that the complaint
party could not do anything due to fear. The motive was
stated to be that one Faiz Ur Rehman, of the same village,
was murdered and accusation was cast on Ishaq, a nephew
of complaint; the complaint stated the accused party set his
house on fire being angry due to murder of said
Faiz Ur Rehman. The SHO sent report to the PS, where the
instant case was registered.


Arguments of learned counsels for the parties and DPP
for the State heard; the record perused. Tentative assessment

of which, for the purpose of deciding instant petition, shows that:

1. The accused-petitioners are directly charged in FIR, by name, for a heinous offence which falls under the prohibitory clause of section 497 CrPC.
2. The FIR was promptly lodged and the ashes were recovered from the spot; the pictures of damaged house and chattels are also available on record.
3. The counsel for accused/petitioners stressed that the statements of eyewitnesses named in FIR were recorded with delay; however, this fact has been explained on the ground that the complaint party was forced to leave the area after occurrence and had moved to Kohat in fear.
4. The complaint has also produced video recording of the occurrence to the IO.

In these circumstances, the accused/petitioners are prima facie found connected with the commission of heinous offence. Resultantly, the instant petition is **dismissed**. Let a copy of this order be placed on record; while this file be consigned to the Record Room after necessary completion and compilation.

Announced
27-04-2020


Jamal Sali Mahmood
ASJ-I, Orakzai (at Baber Mela)