

BA File No. 20/BA of 2019

Or 03
09-07-2019

Present:

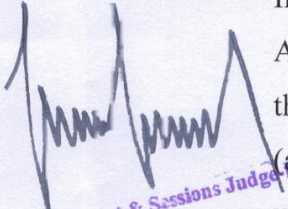
Mudassir Ejaz Advocate for accused/ petitioner
Haseeb Ullah Khan Advocate for complainant
DPP Umar Niaz for the State

Through the instant **Post Arrest Bail Petition** accused/petitioner **Arabistan** s/o Haseeb Ullah Khan; caste Bezote; r/o Jalaka Mela, Lower Orakzai, Kalaya is seeking his release on bail in case FIR No. **18** Dated **25-06-2019** u/s **302/324/34** PPC of PS Kalaya (Lower Orakzai).

Facts of the case are; that, on 24-06-2019, the complainant Taj Muhammad submitted a written complaint to DSP Lower Orakzai. In this complaint he alleged that, on 07-05-2019, he along with Akhtar Muhammad (inured) were ploughing their field in Dagari; that, at 11:45 (sic), Habib Khan (co-accused) and Arabistan (accused/petitioner), both brothers, came out of their house armed with Kalashnikovs and started firing; that the firing of co-accused Habib Khan hit minor Basya Bibi (daughter of complainant), who was present at the spot, and she died. That Akhtar Muhammad received injury on his arm with the fire of the accused/petitioner. The complainant alleged that the accused had tried to grab their lands. He charged the accused for qatl e amd of Basya Bibi, causing injury to Akhtar Muhammad and for attempting at their lives. This application was marked to SHO of Lower Orakzai. Hence, the instant case was registered.

Arguments of the learned counsels for the parties and DPF for State heard and record perused: the tentative assessment of which shows that.

1. No recovery of blood has been affected from the alleged spot of injured; no recovery of fire empties has been made from the spot attributed to accused/petitioner and neither the alleged

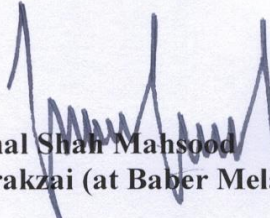

Additional District & Sessions Judge
Orakzai

weapon of offence has been recovered from the accused/petitioner.

2. The common intention between the accused/petitioner and the absconding co-accused shall be determined at trial, after recording of evidence.
3. The injury attributed to accused/petitioner is on non-vital part of body of injured.
4. The accused/petitioner has remained in police custody and the investigation against him is complete. No further incriminating material has been found against the accused/petitioner, except the statement made in belated FIR.

In view of the above circumstance, the accused/ petitioner has made out a case of further inquiry into his guilt. Resultantly, the instant petition is **accepted** and it is directed that the accused/petitioner Arabistan may be released on bail in the instant case, subject to furnishing bail bonds in the sum of Rs. 200,000 (two lac), with two sureties each in the like amount to the satisfaction of this court. Record of the police be sent back along with a copy of this order, while this file be consigned to Record Room after its necessary completion and compilation.

Announced
09-07-2019


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