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BA No. 67/BA & 69/BA of 2020

Or 04
27-06-2020

Present:

Sana Ullah Khan Advocate for accused/petitioner in BA no. 67/BA

Zahoor Ur Rehman Advocate for accused/petitioners in BA no. 69/BA

Complaint Muhammad Ikhlaq, in person

APP Syed Aamir Shah for State

Through this single order I proposed to decide the above mentioned 02 bail applications; as both applications arise out of the same FIR.

The accused/petitioners (1) **Syed Habib** s/o Khial Badshah (accused/petitioner in BA no. 67/BA), (2) **Muhammad Shafiq** s/o Ajab Noor, (3) **Abdul Halim** s/o Ajab Noor, (4) **Rehmat Ullah** s/o Yousaf Khan, (5) **Sajid** s/o Syed Janan, (6) **Khanat Khan** s/o Abdul Shah and (7) **Rehmat Ullah** s/o Amin Jan (accused/petitioners in BA no. 69/BA); all belonging to Mishti caste and r/o Chappar Mishit and Mishti Bazar, Lower Orakzai; are seeking **post-arrest bail** in case **FIR** no. **25** dated **10-04-2020**, u/ss **436/427/452/148/149 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) entered into his house bearing firearms; that these persons 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

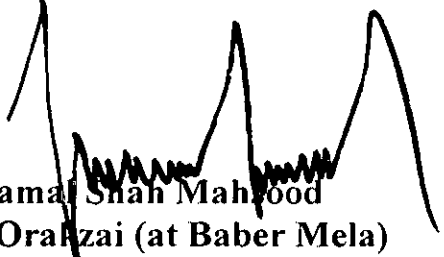
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on fire being angry due to murder of said Faiz Ur Rehman. The SHO sent report to the PS, where the instant case was registered. Several days later the complainant got recorded his statement u/s 164 CrPC, wherein he nominated 03 more accused.

Today the complainant stated before court that he does not want to engage private counsel; arguments of counsels for the accused/petitioners and APP for the State heard; the record perused. Tentative assessment of which, for the purpose of deciding instant petition, shows that the bail petitions of 04 co-accused, namely Haji Muhammad Ayaz, Amjad Khan, Subidar Rehman Shah and Shams ur Rehman, have been allowed by the Honorable Peshawar High Court, judgement dated 15-06-2020 (passed in Cr.Misc.BA no. 1360-P/2020 and Cr.Misc.BA no. 1364/2020), on the ground of further inquiry - based on the conflict in the statement of complainant made in FIR and the statement made u/s 164 CrPC. All the accused have been attributed similar role. Thus, the principal of consistency lies in favour of present accused/petitioners.

In view of the above circumstance, the accused/petitioners have made out a case of further inquiry into their guilt. Resultantly, both the titled bail petitions are accepted and it is directed that the accused/petitioners, **Said Habib, Muhammad Shafiq, Abdul Halim, Rehmat Ullah s/o Yousaf Khan, Sajid, Khanat Khan and Rehmat Ullah s/o Amin Jan**, may be released on bail in the instant case, subject to furnishing bail bonds in the sum of **Rs 100,000 (one 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
27-06-2020


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