


IN THE COURT OF ADDITIONAL SESSIONS JUDGE-II ORAKZAI, AT
BABAR MELA


BBA No..... 22 of 2019

Munsif Ali etc..... Vs..... State

ORDER
16.09.2019

Accused/petitioners on ad-interim pre-arrest bail present. Learned counsel for the accused/petitioner present. Syed Amir Shah APP for the State present. Learned counsel for the complainant along with complainant party present.

Accused/petitioners Munsif Ali, Rajab Ali Ss/o Qamber Ali and Bashir s/o Ghareeb Hussain r/o Kuriz District Lower Orakzai are seeking the confirmation of their ad-interim pre-arrest bail in case FIR No.28 dated 21/08/2019 U/Sec 302/324/34 PPC of PS Lower Orakzai (Kalaya).


Brief facts of the case are that the complainant Nejat Ali reported to the police that on 21/08/2019 he along with his brother Ishaq Ali and nephew Afsar Ali were proceeding to the nearby shop for purchase of house hold articles, that his brother Ishaq Ali was paces ahead of them, that when they reached to the place of occurrence, there from the nearby mountains the accused/ petitioner appeared in front of them and started firing on them as a result of which his brother Ishaq Ali got hit while he and his nephew escaped unhurt. The motive of the occurrence was disclosed by the complainant as blood feud enmity. The report of the complainant was reduced into writing in the shape of murasilla and was sent to the PS for the registration of the case on the bases of which the instant FIR was registered against the accused/petitioners.

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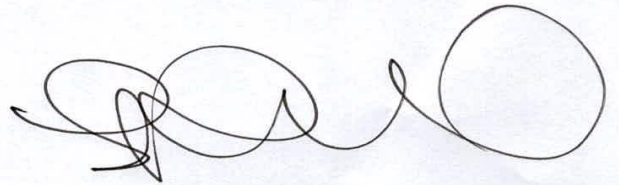
Arguments for the learned counsel for the accused/petitioners and learned APP for the state assisted by learned counsel for the complainant heard and record perused.

The grant of pre-arrest bail is a relief of extra ordinary nature which is only extended in exceptional circumstances where the accused is able to show mala-fide on the part of prosecution or when it is shown on the bare reading of the FIR that no offence has been committed. The accused/petitioners are directly charged for the commission of offence in the FIR with specific role of firing on the deceased. The accused/petitioners are charged for a heinous offence of murder and the accused could not surface on record any mala-fide on the part of complainant or prosecution as in the absence of mala-fide the accused cannot claim the extra ordinary relief of pre-arrest bail. The accused/petitioners are thus failed to make out a case for the confirmation of their ad- interim pre-arrest bail.

In view the above, the pre-arrest bail petition in hand is rejected and the ad-interim pre-arrest bail granted to the accused/petitioners vide order dated 26/08/2019 is hereby recalled.

File of this Court be consigned to record room after its necessary completion and compilation.

Announced
16.09.2019



(SHAUKAT ALI)
Additional Sessions Judge-II,
Orakzai at Babar Mela

SHAUKAT ALI
Addt: District & Sessions Judge-II,
Orakzai at Hangu