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

BBA No... 23 of 2019

Syed Mushtaq Hussain etc..... Vs..... STATE

ORDER
19.09.2019

Accused/petitioner 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 Syed Mushtaq Hussain s/o Syed Habib Hussain, Syed Mir Shah Hussain s/o Ali Hussain and Syed Arif Hussain s/o Syed Abid Hussain r/o Undkhel Payan, Stori Khel Tehsil Lower District Orakzai are seeking the confirmation of their ad-interim pre-arrest bail in case bearing Information report No. 1007-APA/L dated 29/04/2016 u/s 302/34-PPC of PS Lower Orakzai(Kalaya), where the accused/petitioners are charged for making fire on one Gulshan Ali s/o Nazar Ali and as a result of their firing Gulshan Ali got hit and died on the spot.

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 accused/petitioners are neither arrested nor interrogated in the instant case after the registration of murder case against them. Since the registration of the case the accused/petitioners have not applied for their bail nor they have executed any bail bond in the instant case. The accused/petitioners are charged for the murder of deceased Gulshan Ali where the role of firing is attributed to the accused/petitioners. The grant of pre-arrest bail is a relief of extra ordinary nature which is only extended in

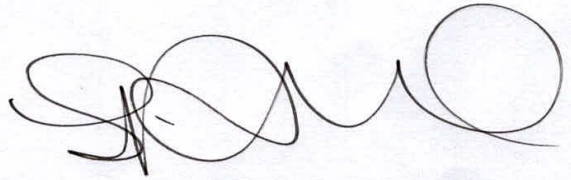
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exceptional circumstances where the accused are able to show mala-fide on the part of prosecution or when it is shown on the bare reading of the FIR that no offence has been committed. The accused/petitioners are charged for the commission of offence in the FIR who 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 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 bail petition in hand is rejected and the ad-interim pre-arrest bail granted to the accused/petitioner 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
19.09.2019



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

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