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

BA No..... 36 of 2020

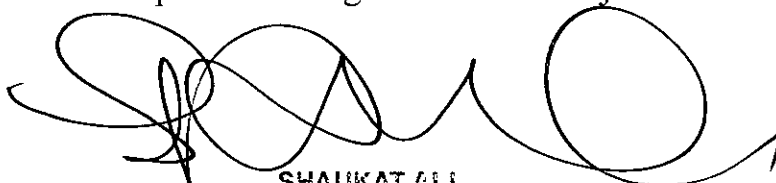
Raheem Ullah..... Vs State

ORDER
04.07.2020

Bail application received from the court of Additional Sessions Judge-I Orakzai. It be registered. Mr. Sanna Ullah Khan Advocate, learned counsel for the accused/petitioner present. Syed Amir Shah APP for the State present. Mr. Noor Kareem Orakzai Advocate learned counsel for the complainant along with complainant present.

Accused/petitioner Raheem Ullah s/o Muhammad Yahya r/o Sheikhan Tappa Samo Zai village Kanganay District Orakzai is seeking his release on bail in case FIR No.38 dated 09/05/2020 u/s 324/34 PPC of PS Lower Orakzai (Kalaya).

Brief facts of the case are that the complainant reported to the police during their gasht on 07/05/2020 that he was present at his home that in the meanwhile at 16:20 hours he received information that his nephew Niamat Ullah s/o Fazal Hameed has been got injured through fire arm while he was ploughing through tractor in his fields; that he rushed to the spot where his nephew was laying in injured condition told him that Muhammad Amin s/o Sahaf Khan, Muhammad Yahya s/o Fazal Din ordered Raheem Ullah/accused petitioner to fire on Niamat Ullah due to which accused/petitioner fired with his pistol on his nephew Niamat Ullah and as a result of firing of accused/petitioner his nephew got hit and injured, that the complainant with the help of co-villager shifted the injured to Civil Hospital Mishti

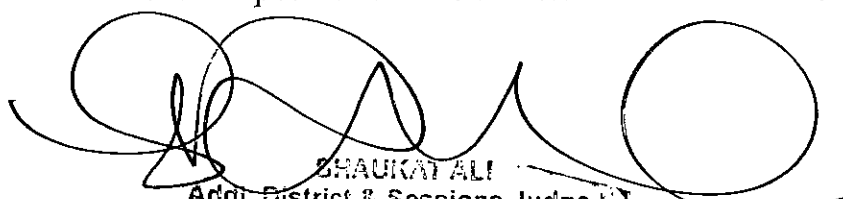


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Addl: District Sessions Judge-II, Orakzai

Mela form where the injured was referred by the doctor to KDA Hospital Kohat for treatment and from KDA the injured was then referred to LRH Peshawar. The report of the complainant was reduced into writing in the shape of murasilla which was sent to the PS for the registration of the case through Constable Noor Hassan on the basis of which the instant FIR was registered against the accused/petitioner and his co-accused.

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

The tentative assessment of record would evince that the accused/petitioner is directly charged in the FIR with specific role of causing fire arm injury to one Niamat Ullah who sustained injuries on vital part of his body. The injuries on the body of the injured is fully supported by the medical reports available on file. The accused/petitioner is charged for firing through pistol and during the spot inspection from the place of accused two empties of 30 bore were recovered by the investigation officer which further supports the version of complainant and confirm the venue of offence. Furthermore the injured and eye witness have also implicated the accused/petitioner for the commission of offence in their statement. The photographs of tractor and the tractor which is taken into possession also shows sign of bullet mark. The co-accused who are released on bail are charged only for lalkara whereas the accused/petitioner is charged for effective firing with pistol with which the accused was duly armed. The record further shows that the accused/petitioner was arrested after about one month of


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the occurrence and he did not surrender himself immediately after he was charged in the case. The available record shows a prima facie case against the accused/petitioner which disentitles the accused/petitioner to the grant of bail. Furthermore, the offence for which the accused/petitioner is charged falls within the prohibitory clause of section 497 Cr.P.C, therefore this court is not inclined to release the accused/petitioner on bail.

In view of the above facts the accused/petitioner is not entitled to be released on bail, therefore the instant bail application is rejected.

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

Announced
04.07.2020



(SHAUKAT ALI)

Additional Sessions Judge-II,
Orakzai at Babar Mela

Dist. District & Sessions Judge,
Orakzai at Babar Mela