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

BBA No. 35 of 2020

Dilawar Shah Vs STATE

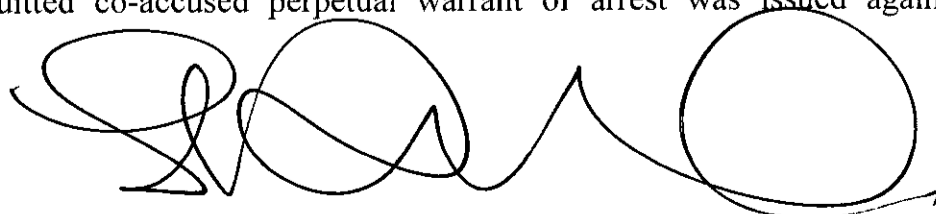
ORDER
15.07.2020

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

Accused/petitioner Dilawar Shah s/o Gul Haleem Shah r/o Tappa Sher Khel Kanganae District Orakzai is seeking the confirmation of his ad-interim pre-arrest bail in case FIR No.36 dated 10/10/2019 u/s 9-D KP-CNSA of PS Lower Orakzai (Kalaya), wherein the accused/petitioner is charged in the confessional statement of accused Muhamad Hanif who was found in possession of 24400 grams chars (24.4 KG) recovered from the secret cavities of tractor trolley driven by accused Muhammad Hanif and owned by the accused/petitioner as stated by accused Muhammad Hanif in his confessional statement, hence the present pre-arrest bail application of the accused/petitioner.

Arguments for the learned counsel for the accused/petitioner and learned APP for the state 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 which is sine qua non for the confirmation of ad-interim pre arrest bail. The record reflects that the accused/petitioner after charged in the instant case in the confessional statement of co-accused went into hiding and proceedings u/s 204 and 87 Cr.PC were initiated against him and on the conclusion of trial against the acquitted co-accused perpetual warrant of arrest was issued against the




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accused/petitioner. The accused remained fugitive from law and courts for sufficient long time without reasonable explanation and was waiting for the fate of the trial pending against co-accused, which exclude mala fide on the part of prosecution, hence in the circumstances of the case the accused/petitioner is not entitle to claim the confirmation of 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 01/07/2020 is hereby recalled.

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

Announced
15.07.2020


(SHAUKAT ALI)
Addl; Sessions Judge-II/JSC,
Orakzai at Babar Mela