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

BBA No. 36 of 2019

Atta-ur-Rahman etc VS State

ORDER
18.12.2019

Accused/petitioner on ad-interim pre-arrest bail along with his counsel present. Syed Amir Shah APP for the State present. Mr. Ibrar Alam learned counsel for the complainant along with complainant present.

Accused/petitioner Atta-ur-Rahman s/o Muhammad Aslam r/o Asgharo Bandha Hangu is seeking the confirmation of his ad-interim pre-arrest bail in case FIR No.48 dated 11/12/2019 u/s 341,387,506,34 PPC of PS Lower Orakzai (Kalaya).

Brief facts of the case are that the complainant submitted application to DPO Orakzai against the accused/petitioner and his co-accused that the complainant is running the business of coal mines after obtaining due permission and transport coal from Wam Panra Bashi Patay through vehicles; that on 27/11/2019 the accused/petitioner along with his co-accused who were duly armed stop truck bearing registration No. K-7440 and threaten the driver of the vehicle; that the vehicle was vacated from coal and the driver was kept in unlawful confinement; that when the two other persons namely Bakhta Meer and Razaq Seth came to the spot they were also threaten and the driver unwantedly took the vehicle and parked the same near FC check Post where he spent the night. The complainant through his application requested for necessary legal action against the accused. The contents of application were reduced vide Mad No. 09 dated 08/12/2019 and thereafter the instant FIR was registered against the accused.

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

The accused/petitioner is seeking the confirmation of ad-interim pre-arrest bail which is a remedy of extra ordinary nature for which the accused has to show mala fide and false implication on the part of the complainant or prosecution or the accused has to show that no offence what so ever has been committed by the bare reading of FIR. The alleged coal has been recovered from the spot which was de-loaded from the truck as alleged by the complainant which shows the commission of offence and rule out any mala fide on the part of complainant, therefore in the absence of mala fide which is sine qua non for the confirmation of bail this court is not inclined to confirm the ad-interim pre-arrest bail granted to the accused/petitioner. The plea of alibi taken by the accused is not supported from the available record and otherwise considering such plea at bail stage would amount to deeper appreciation of evidence which is not allowed at bail stage.

In view the above, the pre-arrest bail petition in hand is rejected and the ad-interim pre-arrest bail granted to the accused/petitioner vide order dated 13/12/2019 is hereby recalled.

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

Announced
18.12.2019



(SHAUKAT ALI)
Additional Sessions Judge-II,
Orakzai at Babar Mela
SHAUKAT ALI
Addl: District & Sessions Judge-II,
Orakzai at Hangu.