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

BA No. 37 of 2019

Abdul Majeed etc VS State

ORDER  
18.12.2019

Learned counsels for the accused/petitioners present. Syed Amir Shah APP for the State present. Mr. Aurangzeb Khan advocate also submitted W/N for accused/petitioners Mr. Ibrar Alam learned counsel for the complainant along with complainant present and submitted W/N on behalf of complainant.

Accused/petitioners Abdul Majeed s/o Syed Jaffar and Muhammad Shoaib s/o Gul Jamal r/o village Wam Panra Central District Orakzai are seeking their post-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 an application to DPO Orakzai against the accused/petitioners and their co-accused that the complainant is running the business of coal mines after obtaining due permission from the authorities concern and transport coal from Wam Panra Bashi Patay through vehicles; that on 27/11/2019 the accused/petitioners who were duly armed stop truck bearing Registration No. K-7440 and threaten the driver of the vehicle; that the vehicle was vacated of 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 drive the vehicle and parked

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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.

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

The tentative assessment of record would transpire that the occurrence has taken place on 27/11/2019 whereas the report is made on 08/12/2019 after delay of eleven days which is nowhere explained in the FIR. The complainant, as stated by him is not the eye witness of the occurrence nor he was present on the spot reported the occurrence and the actual persons who are the alleged victims of the offence neither reported the occurrence to the police nor they recorded their statement in the case to charge the accused for the commission of offence against them. Furthermore, no statement of any other independent witness has been recorded to support the case of complainant against the accused which facts makes the case of accused/petitioners one of further inquiry. The accused remained in the custody of police however neither any incriminating material has been recovered from their possession nor they confessed their guilt. The offences for which the accused/petitioners are charged carries punishment for less than ten

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years which do not fall within the prohibitory clause of section 497 Cr.P.C wherein the grant of bail is a rule and refusal is an exception however there is no exceptional ground to refuse bail to the accused/petitioners. Reliance is placed on 2017 PLD SC 733. The accused/petitioners are already interrogated in the case and are no more required for any further investigation therefore keeping the accused behind the bar would serve no useful purpose.

In view of the above discussion the bail petition in hand is accepted and the accused/petitioners are ordered to be released on bail subject to furnishing surety bond in the sum of Rs. 100, 000/- with two sureties each in the like amount to the satisfaction of this court. The sureties must be local and men of means.

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