

BA No. 33/BA of 2019

Or 05
21-12-2019

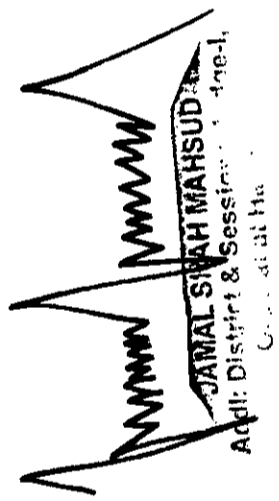
Present:

Akbar Yousaf Khalil Advocate for accused/petitioner (fresh Wakalatnama submitted and placed on file)
Hamid Sarfaraz Advocate for complainant
DPP Umar Niaz for State

The accused/petitioner **Bakhtiyar** s/o Afzal Khan; belonging to Ferozkhel caste and r/o Jeisalkhel, village Karital Lower Orakzai, is seeking **post-arrest bail** in case **FIR No. 45** dated **07-12-2019**, wherein he has been charged, along with other co-accused, **u/ss. 324/427/34 PPC** in PS Lower Orakzai.

The facts of the case, according to the FIR, are; that on receiving information about an injured who was brought to civil hospital Kalaya, an ASI reached the emergency room and found injured Abdul Razaq (complainant) there; that the injured-complainant reported to the ASI that on that day he, along with his brother Hunar Gul and uncle Abdullah, were travelling in their motor car towards their private Abasin Hospital; that when they reached outside the house of one Misri Khan (since deceased), they saw Misri Khan, Bakhtiyar (accused/petitioner) and Zain Ullah standing there armed with weapons; that Bakhtiyar (accused/petitioner) started firing at them with intentions to commit Qatl e amd; that he (complainant Abdul Razaq) received injury/s on his left leg while the others inside car remained safe; that their motor car was also damaged with the firing; that they sped away in their motor car from the spot and took shelter in their hospital. The motive was stated to be previous blood feuds. Hence the instant case was registered.

It is pertinent to mention is here that prior to this FIR, another FIR (FIR No. 44 – under section 302/34) was also registered by one Muhammad Sadique s/o Misri Khan (deceased), wherein a different version of the occurrence was narrated. The bail application of the two accused in FIR No. 44


JAMIL SHAH MAHSUD
Adl: District & Sessions Judge-1
Orakzai


was also pending before this court and arguments were heard in the bail petitions of both FIRs today.

Arguments of the learned counsels for the parties and DPP for state heard and record perused: the tentative assessment of which, for the purpose of deciding instant bail petition, shows that:

1. The matter was reported to the police after delay of almost five hours, which has not been explained. Hence, casting doubt on the prosecution case.
2. The allegation of attempt to commit Qatl e amd shall be determined during trial, as the injury allegedly caused by the present accused/petitioner is on non-vital part of the body of complainant.
3. No weapon of offence has been recovered from the accused/petitioner.
4. The investigation in the case is complete and the accused/petitioner is no more required for further investigation.

In the light of the above discussion, the accused/petitioner Bakhtiyar has made out a case of further inquiry into his guilt, for the purpose of grant of bail. Resultantly, his bail petition is accepted. Accused/petitioner Bakhtiyar may be released on bail, subject to furnishing bail bonds in the sum of Rs. 100,000 (one lac) with two sureties, each in the like amount, to the satisfaction of this court. Record be returned to the quarter concerned with the copy of this order. This file be consigned to Record Room after its necessary completion and compilation.

Announced
21-12-2019


Jamal Shah Mansood
Additional Sessions Judge-I,
Orakzai (at Baber Mela)