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BA File No. 37/BA of 2019

Or 03
23-12-2019

Present:

Aurangzeb Khan Advocate for accused/ petitioner
Complainant Sarteef Khan, in person (Wakalatnama in favour
of Ibrar Alam Advocate submitted and placed on file)
DPP Umar Niaz for the State

Through the instant post-arrest bail petition
accused/petitioner **Ata Ur Rehman** s/o Muhammad Aslam
Khan; r/o Ashgharo Banda, Hangu, is seeking his release on
bail in case FIR No. **48** Dated **11-12-2019**, registered u/s
341/387/506/34 PPC in PS Lower Orakzai.

Facts of the case, according to the available record, are; that,
on 08-12-2019, the SHO forwarded a written application to the
Muharrir of PS, with directions to enter the contents of the said
application in the daily dairy and send a copy to the DPP for
legal opinion. According to daily dairy No. 9 of 08-12-2019,
the allegations made in the said application by complainant
Sarteef Khan are; that the complainant runs coal-mining
business; that on 27-11-2019, accused Noor Haider, M Shoaib,
Jamal Majeed and present accused/petitioner Ata Ur Rehman,
while armed, stopped truck No. K7440, carrying coal of
complainant, forcefully; that they mistreated the driver and
unloaded the coal; that they kept driver in illegal confinement
and criminally intimidated the driver; that the accused party
also criminally intimated 02 other persons who had come to the
spot; that the driver drove the truck to a militia check post and
spent a night there. The DPP opined about the sections of law
attracted to the case, on which the instant case was registered
on 11-12-2019.

Arguments of the learned counsel for accused/petitioner
and DPP for State heard. The counsel for complainant has sent
written arguments which were considered and placed on file.
After the perusal of record, the tentative assessment shows that:

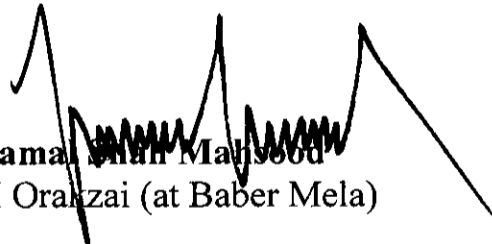
JAMAL SHAH MAHSUD
Adl: District & Sessions Judge-I,
Orakzai at Hangu

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1. The offence allegedly occurs on 27-11-2019, but the report was made to police on 08-12-2019. This delay has nowhere been explained and has made the case doubtful.
2. According to statement of driver of truck, recorded under 161 on 20-12-2019, he did not know or recognize the 04 accused. the complainant himself is not an eyewitness of the occurrence.
3. The allegedly snatched coal was recovered by local police from the spot of occurrence on 12-12-2019, i.e. about 15 days of occurrence.
4. The accused/petitioner has remained in police custody and the investigation against him is complete. No further incriminating material has been found against the accused/petitioner.

In view of the above circumstance, the accused/petitioner has made out a case of further inquiry into his guilt. Resultantly, the instant petition is accepted and it is directed that the accused/petitioner **Ata Ur Rehman** may be released on bail in the instant case, 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 of the police be sent back along with a copy of this order, while this file be consigned to Record Room after its necessary completion and compilation.

Announced
23-12-2019


Jamal Khan Mahsood
ASJ-I Orakzai (at Baber Mela)