

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

BBA No. 27 of 2021
Muhammad Janan etc Vs State

BBA No. 28 of 2021
Izat Gul etc Vs State

BBA No. 29 of 2021
Muhammad Umar Vs State

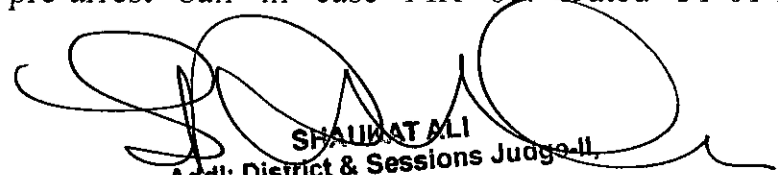
BBA No. 30 of 2021
Anwar Vs State

BBA No. 31 of 2021
Malak Musa Khan etc Vs State

ORDER
06.03.2021

Accused/petitioners on ad-interim pre-arrest bail along with their counsels present. Mr. Nisar Ahmad APP for the State present.

The accused/petitioners 1) Muhammad Janan s/o Shir Muhammad, 2) Malak Muhammad Rehman s/o Abdul Rehman, 3) Lal Zar Shah s/o Zar Shah, 4) Nasim Gul s/o Speen Gul, 5) Muhammad Raziq s/o Zahir Shah, 6) Muhammad Tahir s/o Gul Khalim, 7) Izat Gul s/o Sahib Husain, 8) Mastan Akbar s/o Din Akbar, 9) Payo Shah s/o Daulat Shah, 10) Amin Ullah So Fazal Akbar, 11) Zar Muhammad s/o Noor Muhammad, 12) Feroz Khan s/o Hassan Khan, 13) Hashim Gul s/o Haidar Gul, 14) Javid Akbar s/o Eid Akbar, 15) Khan Gul s/o Razim Khan, 16) Khadar Khan s/o Baghi Shah Khan, 17) Muhammad Umar s/o Qudrat Shah, 18) Anwar s/o Itbar Gul, 19) Malak Musa Khan s/o Shehzad, 20) Saleem Khan s/o Malak Musa Khan, 21) Sanab Khan s/o Mazar Khan, 22) Sawab Gul s/o Hussain Shah, 23) Muhammad Karim s/o Abdul Qadeem, 24) Khan Shah s/o Malak Eman Shah, 25) Ferdos Khan s/o Khan Gul, 26) Khayal Akbar s/o Gul Asghar R/o Tehsil Upper District Orakzai, are seeking the confirmation of their ad-interim pre-arrest bail in case FIR 06 Dated 31-01-2021 u/sec


SHAIKAT ALI
Addl: District & Sessions Judge-II,
Orakzai at Hangu

302/324/436/353/427/148/149 PPC PS Upper Orakzai (Ghiljo) wherein three deceased persons were murdered and two other persons got injured during counter firing by tribes on dispute over the construction of two rooms in the disputed landed property *Mula Patay*, Ghiljo District Orakzai.

Arguments of the learned counsels for the accused/petitioners and learned APP for the state heard and record perused.

The tentative assessment of record would evince that the accused/petitioners the majority of whom are of old age, are shown as Jirga members in the FIR and they are neither shown duly armed with fire arm weapons nor any role of firing or any overt act has been attributed to them in the commission of offence. The people of tribe Mishti, Sheikhan Darha Darh Mama Zai and Rabia Khel whose names are not mentioned in the FIR are charged in the FIR for instigation only. Furthermore the accused/petitioners are neither charged for the murder of deceased persons nor for injuries on the person of injured victims. The eye witnesses Mehmood-ul-Hassan, Hafeez Ullah, Khan Wazir and Mast Ali Shah were produced by the IO before the Magistrate who recorded their statements u/s 164 Cr.PC wherein the accused/petitioners are not charged by them and they also appeared before this court and stated that the accused/petitioners are innocent and also submitted their affidavits in this respect. The son of deceased Shafiq Khan also appeared before the court and stated that the accused/petitioners are innocent and he does not want to proceed against them, therefore keeping in view the aforementioned facts particularly the deposition of eye witnesses, mala fide involvement of the accused/petitioners in the instant case cannot be ruled out.

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Furthermore, thirty two other co-accused charged in the instant case are released on bail by this court, therefore sending the accused/petitioners behind the bars who have joined the investigation would serve no useful purpose.

In view the above, the bail petitions in hand are accepted and the ad-interim pre-arrest bail granted to the accused/petitioners vide order dated 16/02/2021, 17/02/2021 and 20-02-2021 are hereby confirmed on the strength existing bail bonds.

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

Announced
06.03.2021



(SHAUKAT ALI)
Additional Sessions Judge-II,
Orakzai at Babar Mela