

IN THE COURT OF ASGHAR SHAH SESSIONS
JUDGE, ORAKZAI AT BABER MELA

Bail Application No : 96/4 of 2021
Date of Institution : 02.03.2021
Date of Decision : 11.03.2021

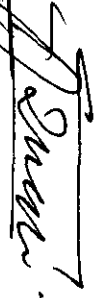
SHAMS UL HASSAN VS THE STATE

ORDER

DPP, Umar Niaz for the State, Sher Nawaz Khattak Advocate for complainant and Muzahir Hussain Advocate for accused/petitioner present. Arguments heard and record gone through.

2. Accused/petitioner, Shams Ul Hassan seeks his release on bail in case FIR No. 96, dated 18.08.2020 registered U/S 302/324/427/34 PPC at Police Station Lower Orakzai Kalaya, wherein he alongwith co-accused is charged for the murder of one, Asmanirom, causing injuries to one, Nasir Malook and ineffective firing at complainant, Gul Nawab and eyewitness, Haji Sar Khan by means of firearm.

3. From the arguments and record available on file, it reveals that there is 04 hours unexplained delay in lodging the report besides in the initial report nobody was charged by name for the occurrence and the matter was reported against unknown accused. It was on 19.01.2021 i.e., after


District & Sessions Judge
Orakzai at Hangu

05 months when complainant, Gul Nawab and eyewitness, Haji Sar Khan in their statements u/s 164 Cr.P.C nominated the accused/petitioner for the offence but even in the said statements neither any source of satisfaction or motive for charging the accused/petitioner has been mentioned. The identification parade was also conducted in respect of the accused/petitioner by the JM, Orakzai through complainant, Gul Nawab and injured, Nasir Malook wherein complainant failed to identify the accused/petitioner, Shams Ul Hassan though he nominated him for the occurrence by name in his statement u/s 164 Cr.P.C. Moreover, in the initial report no feature or description of the accused are mentioned therefore the identification parade is something debatable. It is also necessary to mention here that accused Shams Ul Hassan was arrested on 02.02.2021 whereas his identification parade was carried out after more than a month period on 19.01.2021. No reason of late identification parade has been furnished. At the moment except the identification parade, no other incriminating material is available on the record to prima facie connect the accused/petitioner with the commission of offence charged for.


ASGHAR SIKH
 District & Sessions Judge
 Orakzai at Herat
 11.3.21

4. The absence of previous conviction/involvement, confession, recovery of

weapon of offence would attract further inquiry to the accused/petitioner. Thus, the case of accused/petitioner is arguable for the purpose of bail.

5. Hence, in the light of above, the bail petition in hand stand accepted and accused/petitioner is admitted to bail in sum of rupees 200,000 with two sureties each, each in the like amount to the satisfaction of this court.
6. File be consigned to Session Record Room for after further necessary compilation and completion.

Announced
11.03.2021


ASGHAR SHAH
Sessions Judge, Orakzai
at Baber Mela