

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

BA No. 37 of 2021

Fazal Muhammad etc. Vs State

ORDER

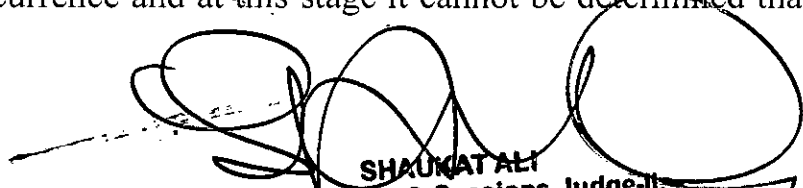
13.03.2021

Syed Abdul Fayaz Advocate and Shaheen Muhammad Advocate Learned counsels for the accused/petitioners present. Mr. Umar Niaz DPP for the State present. Mr. Aman Khan Bangash Advocate along with complainant party present and submitted W/N which is placed on file.

Accused/petitioners Fazal Muhammad s/o Sher Muhammad and Qasim Gul s/o Speen Gul r/o Qaum Akhel District Orakzai seek their post arrest bail in case FIR No. 06 dated: 31/01/2021 u/sec 302/324/353/436/427/148/149 PPC PS Upper Orakzai wherein three deceased persons were murdered and two other persons got injured during counter of firing.

Arguments of learned counsels for the accused/petitioners and learned DPP for the state assisted by learned counsel for the complainant party heard and record perused.

The tentative assessment of record would evince that the accused/petitioners were also Jirga members from Akhel tribe to settle the dispute of construction of two rooms on the disputed land. The accused/petitioners are neither shown armed with fire arm weapons nor has any specific role of firing been attributed to them. The contents of FIR shows that there was cross firing by about more than two hundred persons of the five tribes at the place of occurrence and at this stage it cannot be determined that whose fire


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

got fatal. Furthermore, the eye witnesses shown in the prosecution case who recorded their statement u/s 164 Cr.PC implicating the accused/petitioners for the murder of deceased, their presence is not shown in the site plan at the time of occurrence and their statement was recorded on 10.02.2021, after a delay of ten days from the date of occurrence. Besides another case FIR No.7 was also registered regarding the occurrence where the complainant of that case narrated a different version in respect of the occurrence, hence in view of the aforementioned facts the case of the accused/petitioners comes within the ambit of further inquiry into their guilt. The accused/petitioners remained in custody of police but neither any recovery has been affected from their possession nor they made any pointation or confession. The case of accused/petitioners is thus prima facia arguable for the grant of bail.

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. 200, 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
13.02.2021


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