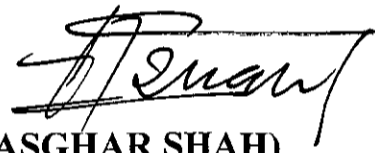


Order No. 03
27.03.2021

APP, Syed Amir Shah for the state present.
Accused/petitioner, Habib Ullah on ad-interim bail
alongwith counsel present. Arguments of counsel for
the accused heard. Thereafter, Abid Ali Advocate
submitted Wakalatnama on behalf of complainant
who is also present. Counsel for the complainant
requested adjournment being freshly engaged.
Adjourned. Case file be put up for arguments of
counsel for the complainant on 29.03.2021.




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Order No. 04
29.03.2021

DPP, Umar Niaz for the state present.
Accused/petitioner, Habib Ullah on ad-interim bail
present. Arguments of the counsel for complainant heard
while that of counsel for accused already heard on
previous date. Record perused.

- (2). Through the instant Bail Before Arrest petition,
accused/petitioner, Habib Ullah requested the
confirmation of interim bail in case FIR no. 57 dated
10.12.2020 u/s 447/427/354/147/149 PPC of PS Upper
Orakzai, wherein he alongwith others are charged for
criminal trespass to the house of complainant,
demolishing her house and causing damage to household
articles lying therein besides it is alleged that the accused


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are not allowing them to take their luggage from the house and the said act of the accused was alleged as disgraced to the female folk of the complainant.

(3). From the arguments and record available on file, it reveals that this court vide order dated 19.12.2020 granted the confirmation of bail before arrest to the three co-accused namely, Noor Muhammad, Shakir and Musafir Gul to whom the same role as of the present accused has been attributed. Therefore, the accused/petitioner, with the similar role, is also entitled for the concession of confirmation of pre-arrest bail as rule of consistency. Moreover, there is unexplained delay of 03 days in lodging the report as the occurrence was alleged on 16.11.2020 whereas the matter was reported to the local police through daily diary no. 5 on 19.11.2020. In the initial report, it is mentioned by the complainant, the male members of her family are in jail and they are residing with their uncle. It was also alleged in the initial report that upon visit of the house on 16.11.2020, they found the same in demolished condition. It means that the occurrence is unwitnessed and even the complainant is not the eyewitness of the occurrence nor any other person was produced to have had seen the accused while committing the offence. The perusal of record further reveals that one, Shireen Gul, the father of presence accused/petitioner was killed for which the male members of complainant family are charged and behind the bar at the moment. It seems that in order to counterblast the said murder case, the present case has

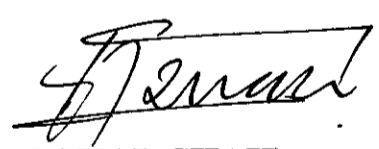
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District & Sessions Judge,
Orakzai at 22/09/20

been registered. All the sections of law levelled in the instant case areailable wherein the accused/petitioner is entitled for the concession of bail in his favour as matter of right. Moreover, none of the sections of law attracts the prohibitory laws of sections 497 Cr.P.C. The accused/petitioner has already joined the investigation and he is no more required for further investigation besides nothing is to be recovered from his possession as such the recalling of bail for observing certain codal formalities would not be justifiable. Thus, further inquiry would be attracted to the case of accused/petitioner and accordingly he is entitled for the confirmation of the interim bail in his favour.

(4). Therefore, in the light of above, the BBA in hand stand accepted and ad-interim bail earlier granted to the accused/petitioner stand confirm on existing bonds.

(5). File be consigned to Session Record Room after further compilation and completion.

Announced:
29.03.2021



(ASGHAR SHAH)
Sessions Judge, Orakzai
at Baber Mela

29-03-21