

Order No. 03  
16.06.2021

Accused/petitioners, Muhammad Shoaib and Toor Khan on ad-interim bail with Abid Ali Advocate present. Injured Jaman Shah present. Mehmood ul Hassan and Hafiz Ullah whose statements u/s 164 Cr.P.C have been recorded in the instant case, are also present. The injured Jaman Shah and both the witnesses named above submitted a joint affidavit to the fact that they have got no objection on confirmation of the pre-arrest bail of the accused/petitioners. Placed on file.

The injured Hussain Bahadar and legal heirs of the deceased are not present.

- (2). The accused/petitioners, Muhammad Shoaib and Toor Khan seek confirmation of ad-interim pre-arrest bail in case FIR no. 6, dated 31.01.2021, u/s 302/324/436/353/427/148/149 PPC of PS Ghiljo Upper Orakzai, wherein as per contents of FIR, during a jirga between various tribes, a mob of 200/250 persons of Mishti/Sheikhan/Daradar Mamozai and Rabiya Khel tribes attacked the barracks of police officials and put on fire the articles therein and thereafter the accused named in the FIR alongwith 30/40 unknown persons of Akhel tribe started firing at police officials and the other tribes, and as a result of exchange of firing, two persons were shot dead while three received injuries. Out of the injured, one Khanzeb also succumbed to injuries later on. Hence, the present case.

- (3). I heard arguments and perused the record. Perusal of case file shows that the accused/petitioner,


Shaukat Ahmad Khan  
District & Sessions Judge,  
Orakzai at Baber Meta  
16/06/21

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Shoaib Khan is neither named in the FIR nor he has been shown present on the spot at the time of occurrence. So for the role of accused/petitioner, Toor Khan is concerned, though he has been nominated in the FIR as member of jirga on behalf of Akhel tribe but he has neither been shown armed nor any overt act towards participation in the commission of offence has been attributed to him. One of the injured and two witnesses named above have also submitted affidavit wherein they have raised no objection on confirmation of the pre-arrest bail of the accused/petitioners. Moreover, the other co-accused with similar roles have either been released on bail or their pre-arrest bail have been confirmed vide various orders of the predecessor of this court or of learned ASJ-II, Orakzai, therefore, the accused/petitioners are also entitled to the same relief on the basis of rule of consistency.

- (4). Hence, in the light of above, the BBA petition in hand of the accused/petitioners, Muhammad Shoaib and Toor Khan stands accepted and ad-interim bail earlier granted to the accused/petitioners stand confirm on the strength of existing bail bonds. Consign.

**Pronounced:**  
16.06.2021

  
(SHAUKAT AHMAD KHAN)  
Sessions Judge, Orakzai  
at Baber Mela