

IN THE COURT OF ADDITIONAL SESSIONS JUDGE/JUDGE SPECIAL COURT
ORAKZAI, AT BABAR MELA

BA No. 72/4 of 2021

Aqib Khan Vs State

Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order	19/06/2021	<p>Mr. Ishtiaq ur Rehman advocate, learned counsel for the accused/petitioner; Mr. Muzahir Hussain advocate for the complainant and Mr. Amir Shah APP are in attendance. This is the disposal of captioned post arrest Bail Application, submitted by accused/petitioner Aqib Khan.</p> <p>2. Riaz son of Sanjab Ali resident of Meta Khan Khel Adam Ghari tapa Siphai District Orakzai reported to the local police on 20th March 2021 by stating that his brother namely deceased Shah Nawaz cousin Gul Ayaz deceased grazing goats in the nearby hillside. They have not returned home back till evening that led him to start searching. Both of them have been found dead and thus transported to District Headquarter Hospital Kalaya Orakzai for conduct of Post-mortem examination. The accused were unknown; however, FIR bearing Number 01 on dated 20.03.2021 was registered under Section 302/34 Pakistan Penal Code, 1860 by local police of police station Kuriz Boya. It was 25th of March 2021 when the Complainant recorded his statement before the learned Area Magistrate under Section 164 of the Code of Criminal Procedure 1898 by charging Aqib Khan, Sajid Khan, Syed Muhammad Raza, and Syed Amir Hussain for commission of the murder of both the deceased. Yaqoot Ali while recording his statement with the same magnitude before same forum added that Aqib Khan and Gul Nawaz at committed murder of both the deceased against the remuneration paid by rest of the accused Syed Muhammad Raza and Syed Amir Hussain on previous motive of blood feud enmity. Accused is behind the Bar that necessitated presentation of Bail Application which is under consideration.</p>

SAYED FAZAL HUSSAIN
 Addl: District & Sessions Judge
 Orakzai at Hangu

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Order continue...	19.06.2021	<p>3. Arguments of the learned counsel for the accused/petitioner and learned APP for the State assisted by learned counsel for the complainant heard and record perused.</p> <p>4. The tentative assessment of record reveals that though accused/petitioner has not been charged on day of logging FIR that is 20.03.2021; however, present petitioner has been mentioned by independent witness hailing from the locality on the same day while pointing out site-plan of the occurrence. This mentioning of petitioner in site-plan as unknown person by such eye witness later on confirmed his identity as accused in the conduct of identification parade in jail premises under the supervision of learned Area Magistrate reflected in Report of identification parade dated 03.06.2021. Similarly, accused was charged by name in statement recorded under Section 164 of the Code of Criminal Procedure, 1898. The petitioner has been given specific role of firing with fire arm weapons. Both the deceased got hit as a result of firing and died on the spot which fact has been confirmed by medical evidence. Ocular account as well as circumstantial evidence clubbed with recovery of incriminating material from the spot further strengthen the prosecution case on its face. There is no mala-fide or ulterior motive on the part of complainant to the extent of present accused for having falsely implicating the accused/petitioner for the commission of offence. It is also worth mentioning that the offence with which accused is being charged for, falls within the ambit of prohibitory clause of Section 497 of the Code of Criminal Procedure, 1898 which is obviously termed crime heinous in nature.</p> <p>5. For what has been discussed above, this Court holds the view that prima facie case is existing against the accused and is not entitled to be released on bail, therefore instant bail application is rejected.</p>
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SAYED FAZAL WADOOD
Addl. District & Sessions Judge
Orakzai at Hangu

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<p>Order Continue...</p>	<p>19.06.2021</p>	<p>6. File of this Court be consigned to District Record Room after its necessary completion and compilation with in the span allowed for.</p> <p>7. Announced in open Court.</p> <p> SAYED FAZAL WADDOOD Additional Sessions Judge/JSC Orakzai at Baber Mela</p>
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