

**IN THE COURT OF ZAHIR KHAN, JUDICIAL MAGISTRATE-I, KALAYA,
ORAKZAI**

Bail Petition87/4 of 2023.
Date of institution.....20.09.2023.
Date of decision.....25.09.2023.

Mr. Asad Ijaz Advocate, counsel for accused/petitioners, Dy.PP for the
state & Complainant Sair Muhammad.

Order No.3
25.09.2023

Dy.PP for the state present. Counsel for accused/petitioners present. Complainant Sair Muhammad present. Record already received. Written arguments on behalf of counsel for complainant submitted and placed on file. Arguments of counsel for accused/petitioners and Dy.PP for the state heard and case file perused.

Accused/petitioners namely Almas Khan S/O Sultan Akbar, Saleh Muhammad S/O Satar Khan, Moeen Khan S/O Khaliq Shah, Hazrat Khan S/O Gulab Khan and Sajjad Khan S/O Habeeb Khan all R/O Qaum Feroz Khel, Tappa Qeemat Khel, Tehsil. Lower, District Orakzai are seeking their post arrest bail in case FIR No.54 dated: 21.05.2023 U/S 504,506, 365, 341, 384, 148, 149 PPC, Police Station Kalaya, District Orakzai.

Perusal of record reveals that offences with which accused/petitioners are charged do not fall within the ambit of prohibitory clause of Section 497 Cr.PC. In such like cases grant of



ZAHIR KHAN
Civil Judge/JM
Kalaya Orakza

25/09/2023

b

bail is a rule and refusal is exception. No such extra ordinary circumstances are available on record to justify departure from this rule. Nothing incriminating has been recovered from possession of accused or on their pointation. There is delay of about 06 months in registration of the FIR. Injury sheet of the injured/complainant is placed on file as per which he was referred to Peshawar but neither medico-legal report of any medical officer of THQ, Hospital Kalaya nor any medical report of Peshawar hospital is placed on file. Neither name of the truck driver is not mentioned in the FIR nor his statement is recorded u/s 161 Cr.PC. None of the accused/petitioners have been arrested at the spot. Co-accused have already been released on bail, therefore, accused/petitioners are entitled to concession of bail on the basis of rule of consistency. Investigation has already been completed and accused/petitioners are no more required to the local police for further investigation and no useful purpose would be served by keeping the accused/petitioners behind the bar.

Consequently, application in hand is allowed. Petitioners be released on bail subject to furnishing bail bonds in the sum of Rs. 80,000/- (Eighty thousand) with two sureties each in the like amount to the satisfaction of this court. Copy of this order be placed on police as well as judicial record. Record be sent back to quarter concerned.



ZAHIR KHAN
Civil Judge/JM
Kalaya Orakza

25/09/023

File of this court be consigned to record room after necessary completion and compilation.

ANNOUNCED:
25.09.2023



Zahir Khan
JMIC-I, Kalaya, Orakzai