

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

BA No. 115/4 of 2021

Inam Gul Vs State

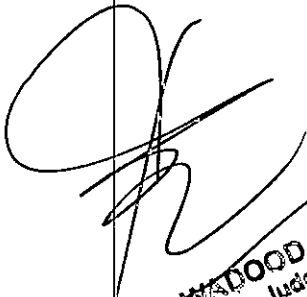
Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order	25/10/2021	<p>Mr. Khurshid Alam advocate for accused/petitioner; complainant in person and Mr. Amir Shah APP for State are in attendance.</p> <p>2. Arguments of the parties at contest have already been heard; whereas, this is the disposal of two different but connected petitions; one for grant of bail on medical ground; and, second for constitution of standard Medical Board to examine accused with reference to mental health condition.</p> <p>3. Taj Wali reported to the police in DHQ Hospital Mishti Mela, that his brother Bismillah was murdered with firearm by Inam Gul in Feroz Khel Mela when he was on visit to bazar for groceries. There was no previous enmity and he is unaware of motive. The complainant and two other witnesses had seen the occurrence. Resultantly, FIR bearing No. 35 dated 13.03.2021 was registered at Police Station Lower Kalaya of Orakzai District by inserting Section 302 of Pakistan Penal Code, 1860. On recovery of weapon, Section 15 of the KP Arms Act 2013 was added in the FIR later on. Case has been put in court and pending at the stage of prosecution's evidence; wherein, six witnesses have already been examined. Meanwhile, petition for grant of bail was filed on sole ground of medical followed by presentation of an application to constitute Medical Board to examine accused on mental health condition. Both such applications are under consideration and being disposed of through this single determination due to closely interlinked.</p> <p>4. This is tentative assessment of record having no nexus with final determination of guilt or innocence of accused for being stage of bail. Similar is the case of</p>


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

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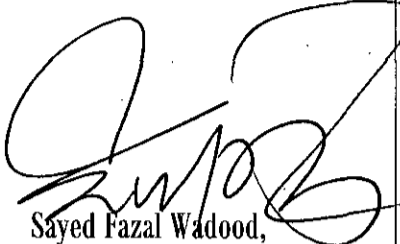
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second pending application for constitution of Medical Board of the same is linked with bail on the score of sole medical ground. Petitioner has grounded the application that his mental health is requiring him to be released on bail. Chapter XXXIV of the Code of Criminal Procedure, 1898 deals the subject of lunatics. Mental abnormality affects criminal liability of an accused but it is a phenomenon that cannot be presumed only on presentation of application or mere contents of petition. The Court is required to be satisfied and having reasons to believe that accused is of unsound mind and consequently incapable of making defense. In present case, the Doctor of District Jail referred the accused to DHQ Hospital with request to examine petitioner on mental health count. DHQ, Hospital Hangu opined in written that as no Psychologist or Psychotherapist is available; therefore, accused may be shifted to KDA Hospital Kohat. Accused when produced before doctors at KDA Hospital Kohat, he was prescribed some medicines and did not opt for prolonged treatment as well as precluded to declare the accused as chronic patient of mental health disease. Prescription was just routine relaxing medicine which is always being given in common course of action to almost every patient. It is further observed that post traumatic disorder in jail is common phenomenon and cannot be so stretched to bring it in sphere of unsound mind and consequent incapacity of making defense. Though other grounds have not been taken by the petitioner in bail application except medical ground; but, still its disposal on other grounds is also necessary for being first regular application of bail. Petitioner is single nominated accused in case and the incident has promptly been reported. The occurrence was broad day and witnessed by ocular evidence. Medical evidence and recovery are corroborating evidence and thus accused is connected with the commission of offence on the face of it.


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Addl. District & Sessions Judge
Ghazal at Hangu

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<p>Order Continue...</p>	<p>25.10.2021</p>	<p>5. For what has been discussed above, petitions stands dismissed.</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 Wadood, AD&SJ, Orakzai at Baber Mela</p>
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