

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

BA No. 48/4 of 2022
Yousaf Mahmood etc 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	25.05.2022	<p>Mr. Tariq Iqbal Advocate represented accused/petitioners; Sarmad Khan Khattak Advocate for complainant; whereas, Mr. Javid Akhtar Wazir Sr. PP for State are in attendance.</p> <p>2. This is the disposal of Post arrest bail application presented by accused/petitioners namely Yousaf Mahmood son of Syed Salam and Syed Salam son of Mawali Khan, both r/o Qaum Malla Khel, Tappa Char Khela, Pakhtanai, District Orakzai.</p> <p>3. Mr. Imtiaz Khan SHO, Police Station Daboori, Orakzai has forwarded Murasila through Constable Mujeeb Ur Rehman from the Emergency Block of Civil Hospital, Daboori, stating therein, that complainant along with his father, were busy in his own land for the purpose of ploughing in his property with a tractor. The present accused/petitioners took their Pistol and started firing due to which the complainant sustained injury to his chest. Motive behind the act is civil dispute over the landed property. Criminal Law was brought into motion and thus FIR bearing No. 12 dated 28-04-2022 was registered under sections 324/148/149 of the Pakistan Penal Code, 1860 in Police Station Daboori. Accused have been remanded to Judicial Lockup which necessitated presentation of instant post arrest bail which is under consideration.</p> <p>4. Learned counsel for accused/petitioners and learned Senior Public Prosecutor for State duly assisted by counsel for complainant were heard at length and file gone through.</p> <p>5. This is tentative assessment of record available on file as deep appreciation of evidence is neither required nor warranted at this stage. The incident has promptly been reported by the injured complainant and nominated the accused by specifically naming them as accused. Accused</p>


SAYED FARAZ WAJOOD
 Addl. District & Sessions Judge
 Orakzai at Hangu

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have been given role of indiscriminate firing over the property and person of complainant. The injury sheet prepared by the Local Police is supported by the Medical documents. It was day light occurrence witnessed by ocular account of evidence. Record further reveals that motive in shape of dispute over landed property is existing. The one of the petitioner has been charged as principal accused with specific role of opening fire that resulted the injuries sustained by injured Safi Ullah. All these facts lead the Court to hold that accused is prima facie connected with commission of offence that falls within the prohibitory clause of Section-497 of the Code of Criminal Procedure, 1898. It is further observed that the trend of recourse to might is right instead of opting legal remedy in civil dispute is the prevailing practice in the Tribal District of Orakzai that need to be focused as a matter of local criminal policy.

6. For what has been discussed above, this Court is not inclined to extend the concession of bail at this stage to the principal accused Syed Salam. As far as second petitioner Yousaf Mahmood concerned, he is juvenile with date of birth as 06.02.2009 being reflected in his School Leaving Certificate available on file. Similarly, the role attributed to him is not of firing rather of holding stick which is obviously lesser. Consequently, he be released on bail subject to furnishing 80,000/- with two local sureties, each in the like amount, to the satisfaction of this Court.

7. File of this Court be consigned to District Record Room, Orakzai after its necessary completion and compilation within the span allowed for; whereas, copy of this Order be placed on record of Police to be returned accordingly.

8. Announced in open Court.


Sayed Fazal Wadood,
AD&SJ/JJC, Orakzai at Baber Mela