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**IN THE COURT OF ABDUL BASIT
ADDITIONAL SESSIONS JUDGE-II, ORAKZAI**

Petition No. 6/BA of 2024

“Younis Khan... Versus ... The State”

Order---03

15.01.2024

Accused/petitioner through counsel present.

DyPP for the State present.

Complainant with counsel present.

Accused/petitioner Younis Khan s/o Nizam Khan seeks his post arrest bail in case FIR no. 18 dated: 01.10.2023 under sections 302/34,109/ of PPC and 15AA of Daboori Police Station, Orakzai.

Abdul Ghafar, complainant being brother of deceased reported that he was reciting the Holy Quran when he heard the fire shots and in the meanwhile, he has also received a call from his brother Arif Shah, who informed him that their brother Alif Shah has been killed by someone; that he rushed to the spot, where he found his brother Alif Shah killed by some unknown accused; that complainant reported that they had no enmity in the area with anyone, hence, the report. Later on, the complainant Abdul Ghafar being brother of deceased recorded his statement under Section 164 of the Code of Criminal Procedure, 1898 and charged Dilawar Khan s/o Laiq Shah, Habib Ullah s/o Muhammad Shah and Saeed Khan s/o Jaman Shah for commission of such offence. Later on, Muhammad Younis was also nominated in the FIR, therefore, on his arrest, he has presented instant post arrest bail petition, which is under consideration.

Arguments of learned counsel for accused/petitioner, learned DPP for the State assisted by counsel for complainant heard and record perused.

The tentative assessment of record reveals that complainant has charged unknown persons in his first report, however, later on he has charged accused/petitioner for commission of offence. Besides, complainant has not disclosed his source of satisfaction and charged the accused/petitioner in

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Abdul Basit
Addl. District & Sessions Judge
Orakzai at Baber Mela

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his statement recorded u/s 161 Cr.PC with considerable delay. That occurrence is unseen, whereas, no specific role has been attributed to any of the accused/petitioner. There is also no motive disclosed behind commission of offence. As per contents of FIR, complainant has allegedly heard the fire shots while reciting the holy Quran at his home, however, the site plan available on file does not provide any sketch of house in the surroundings of the place of occurrence. Moreso, accused/petitioner has been assigned the role of aiding, providing shelter and assistance to main accused of the case. Similarly, the forensic report of the recovered empties provide that these were fired from one and the same weapon, however, four persons have been charged for the said offence. Similarly, co-accused have already been released on bail by this court vide order dated 21.12.2023 and thus rule of consistency is very much attracted to the case of petitioner.

For what has been discussed above, the court conclude that accused/petitioner has made a case of bail, hence, ^{his} ~~their~~ bail application is allowed subject to furnishing bail bonds to the tune of Rs. 300,000; with two sureties, each in the like amount; to the satisfaction of this Court. Sureties must be local, reliable and men of means. Copy of this order be placed on police and judicial files for record.

File of this Court be consigned to District Record Room after its necessary completion and compilation with in the span allowed for; whereas, record be returned.

Announced
15.01.2024


(Abdul Basit)
Addl. Sessions Judge-II, Orakzai