

IN THE COURT OF JUDICIAL MAGISTRATE-I, KALAYA, ORAKZAI

Bail Petition 111/4 of 2023.
Date of institution.....18.12.2023.
Date of decision.....18.12.2023.

Mr. Sana Ullah Advocate for accused/petitioners.
APP for the state

Order.02
18.12.2023

Bail petition received from the court of learned Civil Judge-II, Kalaya Orakzai. Be entered. APP for the state present. Counsel for accused/petitioners present. Record received.

Victim Fazal Khaliq appeared before the court and stated at the bar that he has effected compromise with accused/petitioners outside the court and he has got no objection if accused/petitioners are released on bail or subsequently acquitted. His statement is separately recorded which is duly thumb impressed by him. Photocopy of his CNIC is Ex-PA.

Accused/petitioners namely Sarteeb Khan S/O Muhammad Roman Khan and Lal Rehman S/O Muhammad Ghani are seeking their post arrest bail in case FIR No.49, Dated: 11.12.2023 U/S 379/34 PPC, PS Mishti Mela.

Although the offence is not compoundable, however, in plethora of judgments of the superior courts, it is held that the factum


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of compromise could be considered as a ground for grant of bail in the interest of justice and equity. When victim is not willing to prosecute the accused any further, the court would not compel the parties to do so as "you can take the horse till the water but you cannot make him drink". On merits, the alleged occurrence took place on 07.12.2023 and F.I.R was registered on 11.12.2023. There is unexplained delay of about 04 days in lodging of FIR. There is no report of the complainant. There is no eye-witness to the occurrence. Source of information regarding involvement of accused/petitioners in the commission of the offence has not been disclosed. There is no criminal history of accused/petitioners as per available record. More so, Accused/petitioners have not confessed their guilt before the court. The offence does not fall within the ambit of prohibitory clause of section 497 Cr.PC. Investigation has already been completed and accused/petitioners are no more required to the local police for investigation and no useful purpose would be served by keeping the accused/petitioners behind the bar.



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Resultantly, application in hand is allowed. Petitioners be released on bail subject to furnishing bail bonds in the sum of Rs. 50,000/- with two reliable 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 the quarter concerned forthwith, while file of

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

ANNOUNCED:
18.12.2023



Zahir Khan
JMIC-I, Kalaya, Orakzai