


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

Cr. Miscellaneous Application No.14/4 Of 2022

Gul Haider Vs SHO etc.

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 No.8	29.06.2022	<p>Petitioner Gul Haider along with counsel and Mr. Zubair APP for the State are in attendance. Arguments have already been heard; whereas, this is the disposal of petition submitted under Section 22-A of the Code of Criminal Procedure, 1898.</p> <p>2. Petitioner Gul Haider son of Aleem Haider, resident of Sarobi Garhi, District Orakzai has filed instant petition u/s 22-A Cr.PC for issuance of directions to the Investigating Officer Police Station Kalaya for recording statements of the independent witnesses i.e. Noor Haider, Waseem Ali and Muqem Haider. Petitioner is nominated accused in FIR bearing No. 151 dated 27-12-2021 under Section 302,311,427 of the Pakistan Panel Code, 1860 and investigation is under process. Petitioner has moved an application for recording statement of independent witnesses which was refused by the Local Police that necessitated presentation of instant application under Section 22-A of the Code of Criminal Procedure, 1898, which is under consideration.</p> <p>3. Petitioner contends that he produced independent witnesses of the matters ancillary to the occurrence but the Local Police had not associated them in investigation.</p> <p>4. Comments of Station House Officer of Police Station Kalaya, Orakzai have been received and learned counsel</p>


SAYED FAZAL WAHID QADIR
 Addl. District & Sessions Judge
 Orakzai at Babar Meli

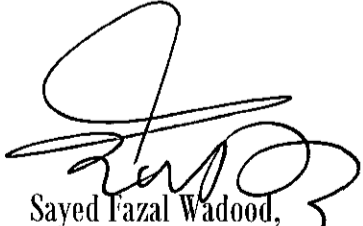
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for petitioner as well as Sr. PP for State have been heard at length.

5. Record available on file reflects that the SHO of PS Kalaya has negated the version of petitioner by stating that he has produced the alleged eye witnesses after lapse of two months which act is based on mala fide. Production of eye witnesses at the later stage is no ground for refusal. Associating someone with the investigation and recording his statement under Section 161 Code of Criminal Procedure, 1898, does not mean determination of innocence or guilt of the accused. Purpose of recording such statement is to enable the accused or complainant to defend himself at the time of trial and cannot be treated as substantive piece of evidence.

6. For what has been discussed above, by attracting jurisdiction u/s 22-A of the Code of Criminal Procedure, 1898, petition in hand stands allowed. Consequently, the SHO of the Police Station Kalaya is directed to record the statement of Noor Haider, Waseem Ali and Muqem Haider under Section 161 Code of Criminal Procedure, 1898. Copy of this Order be placed on record to be returned to the quarter concerned. File be consigned to District Record Room after necessary completion and compilation within span allowed for.

Announced in open Court
29/06/2022


Sayed Fazal Wadood,
AD&S.J, Orakzai at Baber Mela