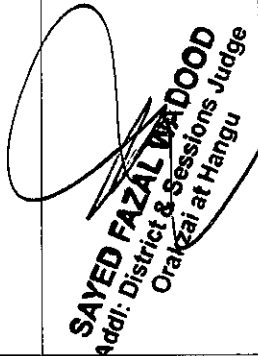


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IN THE COURT OF ADDITIONAL SESSIONS JUDGE ORAKZAI, AT BABAR MELA

BBA No. 62/4 of 2022
Shah Faisal 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 9	22/07/2022	<p>Accused/petitioners on ad-interim pre-arrest bail; complainant in person and DPP for the State are in attendance.</p> <p>2. Arguments have already been heard; whereas, this is the disposal of pre-arrest bail application presented by petitioners namely Shah Faisal Orakzai son of Alam Khan Orakzai and Hazrat Hayat Khan Orakzai son of Hashmat ullah Khan, both residents of Qaum Sultan Zai, Tehsil Lower and District Orakzai.</p> <p>3. Accused/petitioners, named above, seek confirmation of pre-arrest bail, after having been charged in case FIR No. 46 dated 11.05.2022, under Section 3/4 of the Khyber Pakhtunkhwa Explosive Substances Act 2013, registered at Police Station Kalaya.</p> <p>4. Niqab Ali being complainant reported explosion of explosive substance in his dwelling house by late night against some unknown accused. The complainant and his family being available in house have been terrified; whereas, the windows and solar system installed in the house had badly been damaged. No previous enmity or any other clue for accusation in shape of motive has been assigned. Report was entered vide Naqalmaid No. 4 of Daily Diary dated 30-03-2022. The District Public Prosecutor was approached for guidance to which it was opined that the provisions of Explosive Substance Act are attracted to the occurrence. Resultantly, FIR referred above has been lodged against unknown persons. On 24th of May, 2022, the complainant recorded his statement under Section 164 of the Code of Criminal Procedure, 1898 before the Area Magistrate; stating therein, that the earlier reported incident was committed by three persons under command of present petitioners. The petitioner being named in such</p>


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

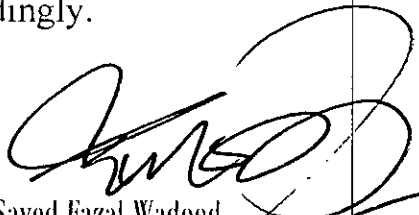
statement presented petition for bail before arrest, which is under consideration.

5. Arguments of counsel for the accused/petitioners and learned APP for State assisted by private counsel for complainant heard and record perused.

6. On tentative assessment of record, it reveals that all of the petitioners have specifically been named in the contents of statement recorded on oath. Incriminating material in shape of explosive substance has been recovered from the spot by the bomb disposal squad. Pre-arrest bail is an extra ordinary relief and is available only where there has been mala fide on part of complainant or Police. Neither mala fide nor intention to disgrace, humiliation, harassment and dishonor on part of the complainant or prosecution is being surfaced; therefore, attracting law relating to grant of pre-arrest bail, which is obviously a different phenomenon from post arrest bail, is improper and unreasonable.

7. For what has been discussed above, instant pre arrest bail petition stands dismissed. Ad-interim pre arrest bail earlier granted to the accused/petitioners is hereby recalled. File of this Court be consigned to District Record Room 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, Orakzai at Baber Mela