

Order.02
21.06.2021

APP for the state present. Counsel for accused/petitioner present and submitted attested wakalatnama for accused/petitioner. Complainant along with father present. Record received. Arguments heard and record gone through.

Complainant stated at the bar that he has effected compromise with accused/petitioner outside the court and he has got no objection if accused/petitioner is released on bail or subsequently acquitted. To this effect statement of complainant recorded wherein he stated that he has got no objection on release of accused/petitioner on bail. Statement is duly thumb impressed by complainant and endorsed by his father. Photocopy of his CNIC is Ex-PA and copy of his father's CNIC is Ex. PB.

Accused/petitioner namely Ahmad Khan S/O Lal Mat Khan is seeking his post arrest bail in case FIR No.61, Dated:14.06.2022 U/S 506,379, 411 PPC, PS Kalaya, Orakzai.

Although offences under Section 379 and 411 PPC are not compoundable, however, in plethora of judgments of the superior courts, it is held that the factum of compromise could be considered as a ground for grant of bail in the interest of

justice and equity. When complainant 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

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ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai

make him drink". On merits, Offences Under Section 506, 379 and 411 PPC do not fall within the ambit of prohibitory clause of Section 497 Cr.PC. In such like cases grant of bail is a rule and refusal is an exception. No extra ordinary circumstances are available on record for refusing bail of accused/petitioner. There is no criminal history of accused/petitioner as per available record. More so, there is unexplained delay in lodging of F.I.R. Accused/petitioner has not confessed his guilt before the court. Investigation has already been completed and accused/petitioner is no more required to the local police for investigation and no useful purpose would be served by keeping the accused/petitioner behind the bar.

Resultantly, application in hand is allowed. Petitioner 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:
21.06.2021



Zahir Khan
JMIC, Tehsil Kalaya,
Orakzai