

IN THE COURT OF SHAUKAT AHMAD KHAN,
SESSIONS JUDGE, ORAKZAI AT BABER MELA

Bail Application No. : 24/4 of 2022
Date of Institution : 19.03.2022
Date of Decision : 29.03.2022

SYED IRTIZA VS THE STATE

ORDER


DPP, Umar Niaz for the State and Ishtiaq Ur

Rehman Advocate for accused/petitioner present.

Complainant present in person. He did not want to engage a private counsel. Arguments heard and record gone through.

(2). The accused/petitioner, after being refused to be released on bail vide order dated 24.02.2022 of learned Judicial Magistrate, Orakzai, seeks his post arrest bail in case FIR no. 113, dated 15.09.2021, u/s 392/411/34 PPC of PS Kalaya wherein, as per contents of FIR, the complainant Muhammad Ali Shah on 08.09.2021 made a report to the police to the fact that on that day he was on his way to Kohat riding his motorcycle bearing no. FC8748/Kohat, when at about 1500 hours he reached Yasin CNG Kalaya, the accused/petitioner Syed Irtiza s/o Syed Ameen Shah alongwith co-accused duly armed snatched the motorcycle from him. Hence, the present FIR.

(3). Arguments heard and record perused. Perusal of the record shows that the accused/petitioner is directly


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nominated in the FIR for the offence which falls within the restrictive clause of section 497 Cr.P.C. Moreover, the accused/petitioner has remained fugitive from law for about 05 months. Furthermore, the stolen motorcycle has been recovered on the pointation of accused/petitioner from his house. So far, the rule of consistency is concerned, though the role of co-accused Naveed Ali is similar to that of the present accused/petitioner but the factum of recovery of the stolen motorcycle from possession of the accused/petitioner, the factum of abscondence of the present accused/petitioner and the presence of alleged motive of the accused/petitioner against the complainant differentiate the case of the accused/petitioner with that of the co-accused; therefore, the rule of consistency is not applicable to the case of the present accused/petitioner.

(4). Hence, in view of what is discussed above, it is held that sufficient material is available on file which reasonably connect the accused/petitioner with the commission of offence; therefore, he is not entitled to the concession of bail at this stage. The instant post-arrest bail application is thus turned down. Copy of this order placed on judicial/police file. Consign.

Pronounced:
29.03.2022



SHAUKAT AHMAD KHAN
Sessions Judge, Orakzai
at Baber Mela

