


Order – 06
27.10.2022

APP for the state present. Clerk of counsel for accused/petitioners present. None present for complainant. Counsel for accused/petitioners has already submitted written arguments.

Record shows that the instant bail petition was filed on 21.10.2022 and was fixed for 22.10.2022. On date fixed i.e., 22.10.2022, son of complainant appeared before the court and sought time for filing wakalatnama. Time was granted and case was fixed for 24.10.2022. On 24.10.2022, lawyer's fraternity was on strike and case was fixed for 25.10.2022. On 25.10.2022, wakalatnama in favour of Mr. Mudassir Ijaz Advocate on behalf of complainant was filed. On 26.10.2022, it was again strike. Today, none appeared on behalf of complainant. Arguments of APP for the state heard and record perused.


Accused/petitioners namely Biland Khan, Gul Bar Khan sons of Nasrat Shah and Gul Raj Khan S/O Wali Khan all residents of Qaum Uthman Khel, Tehsil Lower, District Orakzai are seeking their post arrest bail in case FIR No.95 dated:03.10.2022 U/S 336, 337-A(i)/34 PPC, PS Kalaya, District Orakzai.

Perusal of record reveals that accused/petitioner namely Gul Raj is directly and by name charged in the FIR with role of causing hurt to the


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injured/complainant namely Malak Jan. As per medico legal report of the injured/complainant, according to the eye specialist opinion, vision of right eye of the injured/complainant is lost. The kind of weapon used in the commission of the offence is blunt object like stone or brick which also support the version of complainant. The punishment for offence U/S 336 PPC falls within the ambit of prohibitory clause of Section 497 Cr.P.C. The other accused/petitioners namely Biland Khan and Gul Bar Khan are also directly and by name charged in the FIR but a general role of their presence at the spot and beating the injured/complainant is attributed to them. Section 337-A(i) PPC is bailable. Allegations of mere presence and sharing common intention of accused/petitioners Biland Khan and Gul Bar Khan is not sufficient to attract to provision of Section 34 PPC. Role of the said accused in the commission of the offence could only be determined during trial. In the given circumstances the accused/petitioners Biland Khan and Gul Bar Khan are entitled to the concession of bail while accused/petitioner Gul Raj Khan is not held entitled to the concession of bail.

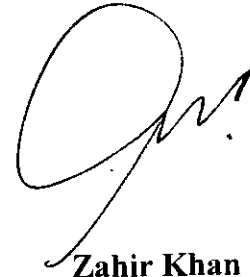
 Consequently, bail petition to the extent of Gul Raj Khan is turned down while bail petition to the extent of Biland Khan and Gul Bar Khan is

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accepted. Accused/petitioners Biland Khan and Gul Bar Khan be released on bail subject to furnishing bail bonds in the sum of Rs. 80,000/- (Eighty

thousand) with two sureties each in the like amount to the satisfaction of this court. Copy of this order be placed on judicial as well as police file. Requisitioned record be retained as bail petition of other accused Ayub Khan etc is pending before this court and fixed for 28.10.2022.

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

ANNOUNCED:
27.10.2022



Zahir Khan
Judicial Magistrate-I,
Tehsil Kalaya, Orakzai