

Order – 03  
29.10.2022

APP for the state present. Learned counsel for accused/petitioners present. Complainant namely Saji Gul absent despite service. Arguments heard and record perused.

Counsel for accused/petitioners filed application to the effect that sections of law have been inadvertently mentioned as 336, 337-A(i), 34 PPC instead of 337-L(i), 147, 149 PPC in bail petition. Sections 337-L(i), 147, 149 PPC are attracted to the case of present accused/petitioners being cross version case. APP for the state conceded the same, resultantly, application allowed. Correction be made with red ink. Moharrir is directed to do the needful.

Accused/petitioners namely 1. Ayub Khan S/O Rehman Shah, 2. Maqrab Shah S/O Abdul Khanan 3. Syed Ghameen S/O Malak Jan, 4. Mohabat Shah S/O Malak Jan and 5. Lal Jameen S/O Malak Jan all residents of Qoum Uthman Khel, Tappa Branka Khel, Tehsil Lower, District Orakzai are seeking their post arrest bail in case FIR No.95 dated:03.10.2022 U/S 337-L(i), 147, 149 PPC, PS Kalaya, Orakzai.

Record shows that report of the injured/complainant namely Malak Jan was recorded vide Mad No. 9, dated 29.08.2022 in DD of PS while cross version of the occurrence was recorded vide Mad No. 10, dated 29.08.2022 wherein the present accused/petitioners are charged for the commission of the offence.

Perusal of record shows that offences with which accused/petitioners are charged do not fall within the ambit of prohibitory clause of Section 497 Cr.P.C. In such like cases grant of bail is a rule and

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refusal is an exception. No extraordinary circumstances exist to justify the departure from the said rule. As per medical report of injured Saji Gul, patient is complaining of trauma to head but there is no external wound on head. There is no obvious injury on the person of injured. There is no fracture of skull. Per record, there is no criminal history of accused/petitioners. Similarly, there is nothing on record which could show that accused/petitioners are previously convict or habitual, hardened, desperate or dangerous criminals. No specific role has been attributed to the accused/petitioners. Investigation has already been completed and accused/petitioners are no more required to the local police for further investigation and no useful purpose would be served by keeping the accused/petitioners behind the bar.

Resultantly, application in hand is allowed. Accused/petitioners be released on bail subject to furnishing bail bonds in the sum of Rs. 80,000/- (Eighty thousand) 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:**  
29.10.2022



**Zahir Khan**  
Judicial Magistrate-I,  
Tehsil Kalaya, Orakzai