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

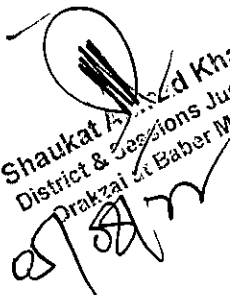
Bail Application No. : 74/4 of 2022
Date of Institution : 30.07.2022
Date of Transfer-In : 01.08.2022
Date of Decision : 05.08.2022

SHAFIQ UR REHMAN ETC. VS THE STATE

ORDER

DPP, Umar Niaz for the State and Shaheen Muhammad Advocate for accused/petitioners present. Mr. Abid Ali Advocate for complainant present. MLC report not submitted. Instead, the IO submitted copies of OPD ticket no. 164 and 165 of type-D hospital Dabori. Placed on file. Arguments of the learned counsel for accused/petitioner have already been heard while arguments of the learned DPP for State and counsel for the complainant heard today and record gone through.

2. The accused/petitioners, **Shafiq Ur Rehman** s/o Dilbar Shah and **Misri Khan**/o Zarin Gul, both residents of section Ali Khel, Sub section Aimal Khan Khel, Gulistan Ghari, Dabori, District Orakzai seek their post arrest bail in case FIR no. _____, dated 28.07.2022, u/s 324/34 PPC of Police Station Dabori, wherein, as per contents of FIR, the police on receipt of information regarding the occurrence reached RHC hospital Dabori where


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the injured/complainant Muhammad Ullah on 28.07.2022 at 1750 hours made a report to the police to the fact that on that day he was present in his house when he heard sounds of loud music upon which he came out and found the present accused/petitioners along with co-accused playing music on MP3 device and when he wanted to restrain the accused, they started beating him. Meanwhile, Abdul Qasim, the uncle of complainant, came out of the house who was also attacked upon with stones and sharp object by the accused as a result of which Abdul Qasim received injuries. The accused/petitioner Misri Khan took a pistol from co-accused Muhammad Daud and started firing at him (complainant), as a result of which he got injury on elbow of his right hand. Hence, the present FIR.

3. It is evident from the record that though the accused/petitioners are directly nominated in the FIR and the offence for which the accused/petitioners are charged falls within the prohibitory clause of 497 Cr.P.C but no MLC report is available on file as to confirm the nature of injuries received by the complainant and Abdul Qasim and the fact that whether the complainant has received any firearm injury or otherwise.

Signature of
District Judge
Court of Sessions
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(11)

Moreover, no blood or any empty has been recovered from the spot of occurrence. Furthermore, the accused/petitioners have remained in police custody but they have neither confessed their guilt nor any incriminating material has been recovered from their possession or on their pointation. The aforementioned facts throw the case against the accused/petitioners within the ambit of further inquiry of 497 Cr.P.C.

4. Hence, in view of what is discussed above, the accused/petitioners are admitted to the concession of bail provided each of the accused/petitioner submits a bail bond in the sum of Rs. 100,000/- with two sureties, each in the like amount to the satisfaction of this court/Judicial Magistrate.

5. Before parting with the order, it is pertinent to mention that the occurrence has taken place on 28.07.2022 but till date no MLC report has been brought on record. Even after issuance of directions to the IO by this court, he instead of submitting MLC report, produced copies of OPD tickets no. 164 and 165 of RHC Dabori. Similarly, the Incharge type-D hospital Dabori has also shown negligence, where on production of the injured before him, he instead of issuing a proper


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MLC report has prescribed his report on OPD tickets no. 237 and 238 wherein neither the nature nor kind of injuries have been specified. Similarly, he has also not brought on record the other relevant facts about the injuries caused to the complainant and injured Abdul Qasim. Hence, copy of this order be sent to the DPO and the DHO Orakzai for making proceedings against the delinquent officials.

6. Copies of this order be placed on file judicial/police file. Consign.

Pronounced
05.08.2022


SHAUKAT AHMAD KHAN,
Sessions Judge, Orakzai
at Baber Mela

