

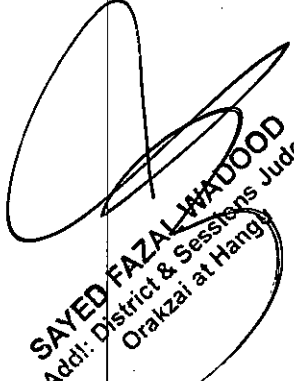
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IN THE COURT OF ADDITIONAL SESSIONS JUDGE/JUSTICE OF PEACE
ORAKZAI, AT BABAR MELA

Cr. Miscellaneous Application No.23/4 Of 2022

Gul Haider Vs SHO etc.

Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order	23.09.2022	<p>Petitioner Gul Haider along with counsel and DPP for the State are in attendance. Arguments have already been heard; whereas, this is the disposal of petition submitted under Section 22-A of the Code of Criminal Procedure, 1898.</p> <p>2. Petitioner Gul Haider son of Aleem Haider, resident of Sarobi Garhi, District Orakzai has filed instant petition u/s 22-A Cr.PC for issuance of directions to the Investigating Officer Police Station Kalaya for issuance of appropriate directions to investigate one Asif Ali who is the actual culprit. Petitioner himself is nominated accused in FIR bearing No. 151 dated 27-12-2021 under Section 302,311,427 of the Pakistan Panel Code, 1860 and investigation is under process. Petitioner has moved an application for recording statement of independent witnesses which was refused by the Local Police that necessitated presentation of application under Section 22-A of the Code of Criminal Procedure, 1898, and was allowed vide Order No. 8 dated 29-06-2022. In such statements Mr. Asif Ali was termed offender but was not charged as accused that necessitated presentation of instant application, which is under consideration.</p> <p>3. Petitioner contends that he produced independent witnesses of the matters ancillary to the occurrence and the</p>


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Addl. District & Sessions Judge
Orakzai at Hangu

Local Police had associated them in investigation by recording their statements. The one Asif Ali is required to be nominated as accused which has not been done and needs interference of the Court to issue appropriate direction.

4. Comments of Station House Officer of Police Station Kalaya, Orakzai have been received and learned counsel for petitioner as well as Sr. PP for State have been heard at length.

5. SHO of PS Kalaya has negated the version of petitioner by stating that he has produced the alleged eye witnesses after lapse of two months and that the nomination of Asif Ali by the father of one of deceased has been delayed for months without any explanation. It was added that the petitioner is himself accused and to avoid the consequences, the Asif Ali has wrongly been shouldered with the allegation of committing murder.

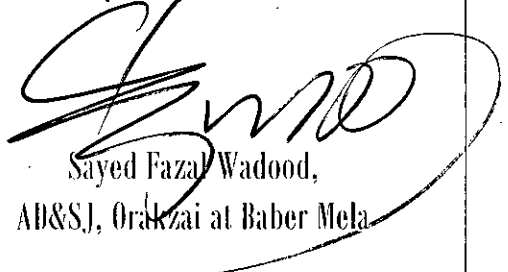
6. To take notice of neglect, failure or excess committed by Police Authority to relation in its functions and duties is the mandate of law as ex-officio justice of peace. When the petitioner despite being accused is father of one of the deceased and had produced witnesses alleging the involvement of Asif Ali in the incident, the police were bound to interrogate the person (Asif Ali) and if material was available against him, he would have been charged him as co-accused or had excluded him on the basis of such material. The plea of police that petitioner is accused and he cannot level charges against anyone else is a stance


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having no legal putting as the statement of one co-accused can safely be relied upon to interrogate some other person as co-accused.

7. For what has been discussed above, by attracting jurisdiction u/s 22-A of the Code of Criminal Procedure, 1898, petition in hand stands partially allowed to the extent that Asif Ali shall be interrogated in the case and to proceed further in accordance with law while keeping in view the result of such interrogation. Copy of this Order be placed on record to be returned to the quarter concerned. File be consigned to District Record Room after necessary completion and compilation within span allowed for.

Announced in open Court
23/09/2022


Sayed Fazaal Wadood,
AD&SJ, Orakzai at Baber Mela