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

BBA No. 96/4 of 2022

Gul Raib Khan Etc. Vs State

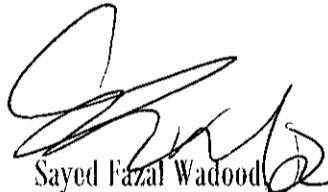
Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order	22/10/2021	<p>Accused/petitioners on ad-interim pre-arrest bail present.</p> <p>2. This is the disposal of Pre arrest bail application presented by accused/petitioners Gul Raib Khan son of Walayat Shah, Lajbar Kahn son of Fazal Jan, Mir Hassan Shah son of Lal Mat Khan, Khan Afzal son of Lal Mat and Malak Ameen son of Gul Khamin, all residents of Qaum Feroz Khel, Tappa Qimat Khel District Orakzai.</p> <p>3. Complainant reported that he was working in his landed property when the present petitioners entered and started cutting of trees in his field. Complainant tried to stop them from cutting of trees in his property; whereon, accused abused him and extended life threat. The complaint was given effect in FIR No.87 dated 13.09.2022, registered under Section 506/504/427/352/147/149 of the Pakistan Penal Code, 1860. Consequently, accused presented application for grant of pre-arrest bail, which is under consideration.</p> <p>4. Arguments of learned counsel for the accused/petitioners and learned APP for State assisted by learned private counsel for the complainant heard and record perused.</p> <p>5. On tentative assessment of record, it reveals that motive assigned for the commission of offence is doubtful. As per complainant, he is the mortgagee of one Jamal Khan who is in dispute with the petitioners over the ownership of property so mortgaged. The cutting of tree is the prime allegation which is obviously ownership of the mortgager who has neither reported the incident nor recorded his</p>


SAYED FAZAL WADOOD
Addl. District & Sessions Judge
Orakzai at Hangu

statement before the police. Similarly, the quantum, the kind, specie and recovery of trees are facts missing on the file. It has been held in *Nazar Muhammad vs State* reported as 2012 PCr.LJ 430 that if a person is otherwise entitled to bail, no useful purpose shall be served by putting him firstly behind the bar and then allowing him bail. The case for being of no ocular independent evidence, no recovery and nomination by an irrelevant person as complainant, is fit for grant of bail and withholding of it will be humiliation.

6. For what has been discussed above, instant pre arrest bail petition stands allowed. Ad-interim pre arrest bail earlier granted to the accused/petitioners is hereby confirmed on existing bail bonds. File of this Court be consigned to District Record Room after its necessary completion and compilation within the span allowed for; whereas, copy of this Order be placed on record of Police to be returned accordingly.

7. Announced in open Court.


Sayed Fazal Wadood
AB&SJ, Orakzai at Baber Mela