

(B)

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

Bail Application No : 90/4 of 2022
Date of Institution : 21.10.2022
Date of Decision : 27.10.2022

KHAISTA KHAN ETC. VS THE STATE

ORDER

DPP, Umar Niaz for the State and Sana Ullah Khan Advocate for accused/petitioners present. Complainant present through his son, Raheem Uddin. Mr. Abid Ali Advocate for complainant present. He submitted Wakalatnama. Placed on file. Arguments heard and record gone through.

- (2). The accused/petitioners, Khaista Khan and Khan Akbar, after being refused to be released on bail vide order dated 18.10.2022 of learned Judicial Magistrate-I, Tehsil Kalaya, seek their post arrest in case FIR no. 19, dated 04.10.2022, u/s 337-A(iii)/34 PPC of Police Station Kurez Boya, wherein, as per contents of FIR, the injured/complainant Mamoor Khan on 29.09.2022 at DHQ Hospital Hangu made a report to the police to the fact that on that day during a jirga between his step-brothers Khaista Khan and Khan


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Akbar (the accused/petitioners) and him in the presence of elders, the accused/petitioners used abusive language against him and when they were interfered by him (complainant/injured) they got furious. The accused/petitioner Khaista Khan hit him with a butt of rifle on his head as a result of which he received injury while the accused/petitioner Khan Akbar also beat him with sticks and fists. Hence, the present FIR.

(3). It is evident from the record that the accused/petitioners are directly nominated in the FIR, both the accused/petitioners and the injured/complainant are brothers inter se and there can be no question of misidentification of nonidentification and the offences for which the accused/petitioners are charged, fall within the restrictive clause of section 497 Cr.P.C; however, the accused/petitioner Khan Akbar is of the age of 15/16 years as per his card of arrest and the effective role of causing injury to the injured/complainant has also not been attributed to him.

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(4). Hence, in view of what is discussed above, the accused/petitioner Khaista Khan being specifically charged for causing grievous injury to the injured/complainant is not entitled to the

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concession of bail at this stage; therefore, his application for post-arrest bail is turned down while the accused/petitioner Khan Akbar, being juvenile and not specifically charged for causing injury to the injured/complainant, is admitted to the concession of bail provided he submits a bail bond in the sum of Rs. 100,000/- with two sureties, each in the like amount to the satisfaction of Judicial Magistrate concerned/MOD. The sureties must be local, reliable and men of means. Copy of this order be placed on police/judicial file.

Consign.

Pronounced:
27.10.2022


SHAUKAT AHMAD KHAN
Sessions Judge, Orakzai
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