

Order – 03
16.09.2022

APP for the state present. Learned counsel for accused/petitioners present. Complainant along with counsel present. Arguments heard and record perused.

Accused/petitioners namely 1. Sulaiman S/O Alam Khan R/O Qoum Mandra Khel, Tehsil Lower, District Orakzai, 2. Nadeem Khan S/O Marwat Khan and 3. Tariq S/O Ambail both R/O Qoum Stori Khel, Tehsil Lower, District Orakzai are seeking their post arrest bail in case FIR No.80 dated:27.08.2022 U/S 337-A(ii)/34 PPC, PS Kalaya, Orakzai.

Perusal of record shows that the alleged occurrence took place on 22.07.2022 at 17:00 hours and it was reported on 22.07.2022 at 19:00 hours. FIR was registered on 27.08.2022. Before registration of the case, inquiry was conducted, but there is nothing on record which could show that any permission whatsoever was obtained from the court. Although, accused/petitioners are directly and by name charged in the FIR for the commission of the offence, however the offence with which accused/petitioners are charged does 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 refusal is an exception. No extraordinary circumstances exist to justify the departure from the said rule. As per medical report, there is a single wound on the head of the complainant but three persons are charged for causing the said injury. No specific role has been attributed to the accused/petitioners. As

per contents of FIR, complainant received firearm injury, however, Medico legal report shows kind of weapon used as sharp object like sharp stone or knife. Medical report of the injured complainant does not support the version

JM

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ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai

of complainant. No empty has been recovered from the spot. No motive is advanced by complainant for the commission of the offence. 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. 100,000/- 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:
16.09.2022



Zahir Khan
Judicial Magistrate-I,
Tehsil Kalaya, Orakzai