

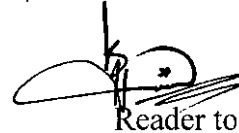
④
IN THE COURT OF ABDUL BASIT
ADDITIONAL DISTRICT & SESSIONS JUDGE-II/
JUDGE SPECIAL COURT, ORAKZAI

Case Title Muhammad Kareem etc. vs State etc.

Note Reader
30.04.2024

The Presiding Officer is availing casual leave today.

File be put up on 07.05.2024.



Reader to
AD&SJ, Orakzai at Baber Mela

Order---04

07.05.2024


Accused/petitioners on ad-interim pre-arrest bail are present.

Counsel for accused/petitioners and DyPP for the State are present. Accused/petitioners submitted wakalatnama in favor of Mr. Shaheen Muhammad, advocate.

Accused/petitioners Muhammad Kareem s/o Momin Khan and Muhammad Farooq son of Muhammad Jamil seek confirmation of their pre-arrest bail provisionally granted to them in case FIR no. 06 dated 05.04.2024 u/s 3/4 AF of Ghiljo Police Station, Orakzai.

Concise facts of the case as per report are that complainant alongwith other police officials during patrolling the area heard the heavy aerial firing from Ghiljo Bazar side and they rushed towards that direction; that on collecting the information, they came to know that Muhammad Karim and Muhammad Farooq made heavy aerial firing in celebration on the eve of transfer of The DC Orakzai; that aerial firing caused fear to the people of locality, hence, FIR.

Viewing the arguments advanced by learned counsel for parties and record before the court, it is held that the incident has not been witnessed by any independent person. Motive assigned for the commission of offence is dubious. No source of information has been disclosed. There is no independent evidence except allegation available on file. Not a single empty has been recovered from the spot. No weapon of offence or any incriminating material has been recovered from the possession of accused. There is not sufficient


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Hangu

Contd--04

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incriminating material available on file to presently connect the accused/petitioners with the commission of offence at this stage, which does not rule out any possibility of false implication for the accused/petitioners in the commission of offence. Refusal of pre-arrest bail would just amount to expose them to humiliation as they will be otherwise entitled for regular bail in the given circumstances.

Importantly considerations for grant of pre-arrest bail are not at all different from the considerations for grant of post arrest bail, as far as merits of the case are concerned. The only difference is that there must be additional basis of humiliations, harassment, malafide, intention to disgrace and dishonor. If a person is otherwise entitled to bail, no useful purpose shall be served by putting him firstly behind bars and then allowing them bail. Court has to keep a balance, therefore, if a fit case for grant of bail is made out, bail before arrest can be allowed in appropriate cases. (Reliance is placed on 2012 PCrLJ 430 [Sindh]). Similarly arrest for ulterior motives such as humiliation and unjustified harassment is a valid consideration for grant of pre-arrest bail. (Reliance is placed on 1993 PCrLJ 446. 2008 MLD 805 [Karachi]).

Resultantly, application submitted by accused/petitioners for pre-arrest bail is allowed and ad-interim bail already granted to them is confirmed on the existing bail bonds. Copy of this order be placed on judicial and police files for record.

Record be returned alongwith copy of this order and file of this Court consigned to the Record Room after its completion and compilation.

Announced
07.05.2024


(Abdul Basit)
Addl. Sessions Judge-II, Orakzai