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IN THE COURT OF ABDUL BASIT
ADDITIONAL SESSIONS JUDGE-II, ORAKZAI

Petition No. 55/4 of 2024

"Muhammad Sulaiman... Versus ... The State"

Order---02

06.06.2024

Accused/petitioner on ad-interim pre-arrest bail is present.
Complainant Naeem Khan in person and DyPP for the State are in attendance.

Accused/petitioner Muhammad Sulaiman seeks confirmation of his pre-arrest bail provisionally granted to him in case FIR no. 37 dated 22.05.2024 under Section 382/34 PPC of Kalaya Police Station, Orakzai.

Arguments heard and record perused.

Concise facts of the case are that on eventful day Naseem Khan, the complainant, was on his way to Dana Hola Orakzai for outing, when two persons have intercepted him by aiming the firearms at him, where after, one of them has snatched Rs. 3,500/- and committed theft of Honda CD-70 motorcycle registration no. FC-9733-Kohat; that after collecting the information and on his being satisfied, he has charged Qasim and Sulaiman for the commission of offence, hence, the FIR.

At the very outset of proceedings complainant Naeem Khan son of Nazar Gul appeared before the court and brought into the notice of court that accused/petitioner has proved his innocence to him before the elders of locality and he has been satisfied; therefore, he has got no objection on confirmation of bail before arrest of accused/petitioner Muhammad Sulaiman. In this respect he has also submitted an affidavit and his statement recorded, wherein, endorsed the above fact. Affidavit is Exh.PA and copy of his CNIC is Exh.PB. Complainant was interviewed about the facts above as well,

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who stated at the bar that he has fully satisfied himself about the innocence of accused/petitioner and submitted the affidavit without any duress/pressure.

Perusal of record reveals that there is no independent witness to the occurrence. There is no source of satisfaction been shown by the complainant to charge the accused/petitioner. There is no evidence except the mere allegation which makes it a case of further inquiry. No recovery whatsoever has been effected from accused/petitioner. Besides above, complainant has submitted an affidavit alleging that the accused/petitioner has satisfied him about his innocence in front of elders of the locality; therefore, he has no objection on confirmation of bail before arrest of the accused/petitioner.

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 related. The only difference is that there must be additional basis of humiliations, harassment, malafide, intention to disgrace and dishonor; therefore, in the given circumstances sending the Sulaiman, accused/petitioner, behind the bars would serve no useful purpose as he has already joined the investigation, hence, the bail before arrest petition of the accused/petitioner, Muhammad Salman is confirmed on the existing bail bonds. Copy of this order is placed on judicial/police files for record.

File consigned to the record room after completion and compilation, while requisitioned record be returned forthwith after placing on it copy of the present order.



Announced
06.06.2024

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