

(4)

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

Petition No. 57/4 of 2024

"Mir Azam Khan... Versus ... The State"

Order---02

07.06.2024

Accused/petitioner on ad-interim pre-arrest bail is present.

Counsel for accused/petitioner is present.

DyPP for the State is in attendance.


Zahid Shah, XEN TESCO, also in person is present.


Accused/petitioner Mir Azam Khan s/o Sanjab Khan seeks confirmation of his pre-arrest bail provisionally granted to him in case FIR No. 17 dated: 17.04.2024 registered under Section 462-K of Kurez Boya Police Station, Orakzai.

Brief facts of the case as per report are that on 04.10.2023, during checking, the TESCO staff found that accused/petitioner was involved in theft of the electric power, who was illegally using the electric power energies which was totally against the TESCO rules and causing financial loss to government exchequer, hence, FIR.

Arguments heard and record perused.

Perusal of record reveals that accused/petitioner has been charged for misusing the electric energy but as per available record no laboratory report is available on file despite that investigation in the case in hands has almost been completed. Similarly complainant/SDO has not recorded the statement of any independent person in respect of tampering or misuse of electricity by accused/petitioner. Apart from above complainant/SDO has also not mentioned the name of officials, who were on checking in the area on eventful day. The offence does not attract prohibitory clause of section 497 Cr.PC. There is not sufficient incriminating material available on


Zahid Shah
XEN, TESCO


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Orakzai at Baber Mela,
Hangu

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file as also evident from prosecution report to connect the accused/
petitioner with commission of offence.

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 him 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. Similarly arrest for ulterior motives such as humiliation and unjustified harassment is a valid consideration for grant of pre-arrest bail.

Resultantly, the application submitted by accused/petitioner for pre-arrest bail is hereby allowed and ad-interim bail already granted to him 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
07.06.2024


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