

IN THE COURT OF SYED OBAIDULLAH SHAH,
SESSIONS JUDGE, ORAKZAI AT BABER MELA

Bail Application No : 36/4 of 2024
Date of Institution : 15.05.2024
Date of Decision : 01.07.2024

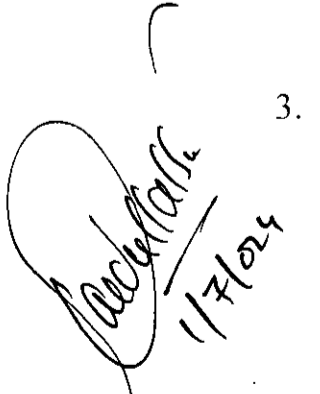
MUHAMMAD ULLAH VS THE STATE

ORDER

DPP, Umar Niaz for the State and Shafi Ullah and Faqeer Muhammad Advocates for accused/petitioner present. Complainant Mukhtiar Alam not present. LRs of the deceased also not present. Arguments heard and record gone through.

2. Accused/petitioner, **Muhammad Ullah** s/o Zulfa Khan seeks his post arrest bail in case FIR no. 14, dated 11.03.2024, u/s 279/337-G/322/427 PPC of Police Station Kalaya, wherein as per contents of FIR, on 11.03.2024 the local police on the basis of information regarding the occurrence reached THQ Hospital Kalaya, where the complainant/injured Mukhtiar Alam with a dead body of his cousin, Nazim made a report to the police to the fact that on that day he along with his cousin were present at Yarzali Khan shop for purchasing household articles where at about 1300 hours a person harshly and negligently driving a motorcar lost control over the vehicle and hit them, resulting in the death of Nazim while the complainant received injuries besides damaging the shop. Hence, the present FIR.

3. Learned counsel for the accused/petitioner argued that the accused/petitioner is falsely been charged for an offence which entails Diyat amount. On the other hand, learned DPP for the state put forward his arguments that the accused/petitioner is directly


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District & Sessions Judge
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FIR No. 14, dated 11.03.2024, u/s 279/337-G/322/427 PPC, Police Station Kalaya

charged in the FIR for committing a heinous offence and recoveries has been made from the spot.

4. In the light of arguments advanced by the learned DPP and counsel for the accused/petitioner, record gone through which shows that though the accused/petitioner is directly nominated in the FIR and the offence for which the accused/petitioner is charged, falls within the prohibitory clause of section 497 Cr.P.C but the accused/petitioner was initially charged u/s 320 PPC and was later on converted to 322 PPC which does not involve any imprisonment except Diyat amount. As per **2021 MLD 1126**, accused is entitled to bail as of right in an offence which does not entail the punishment of imprisonment because if he is refused bail the period as under trial prisoner would amount to a case of double jeopardy. Furthermore, the conduct of the complainant and the LRs of deceased towards the case seems casual as they have been served several times through notices but in vain. Thus, further inquiry would be attracted to the case of accused/petitioner.

5. In these circumstances, bail petition in hand stands accepted and the accused/petitioner is admitted to the concession of bail provided he submits bail bonds in sum of Rs. 100,000/- with two sureties each in the like amount to the satisfaction of this court. Sureties must be local, reliable and men of means.

6. Order announced. File of this court be consigned to record room after its necessary completion and compilation. Copy of this order be placed on judicial/police file.

Dated: 01.07.2024

Syed Obaidullah Shah
11/07/2024

SYED OBAIDULLAH SHAH
Sessions Judge, Orakzai
at Baber Mela

