

4

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

Petition No. 69/4 of 2024

"Abidullah etc. ... Versus ... The State etc."

Order---05

Accused/petitioners through representative present.

11.07.2024

Complainant in person is present.

DyPP for the State is present.

Accused/petitioners Abidullah and Muhammad Ahmad alias Muhammad seek their post arrest bail in case FIR No. 26 dated 20.05.2024 u/sections 334, 337-A (i), 337-A (iii), 337-F(ii), 337-L (2), 147 and 148 PPC of Mishti Mela Police Station, Orakzai.

Brief facts of the case are that local police on receiving the information rushed to the DHQ Hospital Mishti Mela, where injured Syed Farooq, Mirbat Khan, Aqal Wazir, Rahmanullah and Muhammad Rahman were present; that complainant Aqal Wazeer reported that on 15.04.2024 at 1745 hours, Syed Ameen, Shoaib Khan, Muhammad Tayyab, Umar Hayat, Naveedullah, Ameen Mola, Hazir Khan, Abidullah, Zahidullah, Muhamma & Noor Islam were digging the bank of *Pehlawan Talab* with spades and picks, which led the water flow onto the main road near their house and caused damage to the road; that they asked the above persons to stop the flow of water as road is getting damage, whereat, they got infuriated and attacked them with stones and sticks resulting into the injuries to complainant, his companions including his brother and nephew; that the complainant charged above mentioned persons for causing injuries to them, hence, the report.

ayy /  
11/07/2024  
Abdul Basit  
A.J.J. District & Sessions Judge-II  
Orakzai at Baber Mela,  
Hangu

ntd. 05

11.07.2024

(5)  
Arguments have already been heard and record perused.

Viewing the arguments advanced by the learned counsel for parties and record available before the court, it is held that not a single independent person has been cited as witness to occurrence. Record also provides that no tool etc. used in the commission of offence has been recovered so far. General role of hitting has been given to all accused/petitioners and no specific role is attributed to anyone. There is no previous criminal history of accused/ petitioners about their involvement in such nature cases as per available record. They have not confessed their guilt. At present, there is not sufficient incriminating material available on file to connect the accused/petitioners with the commission of offence. There is cross version brought on record by accused/petitioners against complainant party in the shape of daily diary no. 22 of even date; therefore, this is yet to be seen as to who was aggressor and who was aggressed upon and thus all the above facts makes it a case one of the further inquiry. Admittedly, complainant party had already been granted bail by the learned Judicial Magistrate-I, Kalaya Orakzai; therefore, accused/petitioners also become entitled to the same concession being party to counter version case. More so, the accused/petitioners cannot be kept in jail merely on the ground that they were directly charged for an offence falling under the prohibitory clause of section 497 CrPC because mistaken relief of bail could be repaired by convicting the accused, if proved guilty, however, no proper reparation could be offered for their unjustified incarceration, *albeit*, their acquittal in the long run, the wisdom is drawn from case law reported in 2017 MLD 1220 [Peshawar (Abbottabad Bench)].

ayy /  
11/07/2024  
Abdul Basit  
Jd: District & Sessions Judge-II  
Orakzai at Baber Mela,  
Hangu

6

●ntd. 05

11.07.2024

For what has been discussed above, the court conclude that accused/petitioners have made a case of bail, hence, their bail application is allowed subject of their furnishing bail bonds to the tune of Rs. 200,000 with two sureties, each in the like amount to the satisfaction of this Court. Sureties must be local, reliable and men of means. Copy of this order be placed on police and judicial files for record.

File of this Court be consigned to District Record Room after its necessary completion and compilation with in the span allowed for; whereas, record be returned.



**Announced**  
11.07.2024

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