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

Bail Application No. : 45/4 of 2024
Date of Institution : 10.07.2024
Date of Decision : 19.07.2024
HABIB KHAN VS THE STATE ETC

ORDER

DPP, Umar Niaz for the State present. Mr. Muhammad Irfan Khattak Advocate present for accused/petitioner present. Arguments heard and record gone through.

2. Accused/petitioner, **Habib Khan** s/o Naimat Shah, after being refused to be released on bail vide order dated 09.07.2024 of the learned Judicial Magistrate-I, Tehsil Court Kalaya, seeks his post-arrest bail in case FIR No. 46, dated 15.06.2024, u/s 324 PPC of Police Station Kalaya, wherein, as per contents of FIR, the local police acting on information regarding the occurrence, reached DHQ Hospital Mishti Mela where the complainant made a report to the local police to the fact that during the eventful day he had gone to meet one Hazrat Ullah at Goen Hotel, where the accused/petitioner along with Shah Fiaz and Torak Khan duly armed were present there and the accused/petitioner made firing upon him, as a result of which he received injury on right thigh. Hence the preset FIR.

Counsel for the accused/petitioner argued that the accused/petitioner has falsely been charged in the instant case, that no weapon of offence has been recovered. On the other hand, learned DPP for the

Syed Obaidullah Shah
District & Sessions Judge
Orakzai at Baber Mela

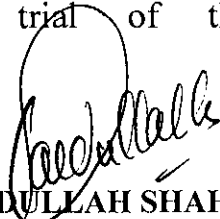
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state put forward his arguments that the accused/petitioner has directly been charged in the FIR and the recovery in shape of different articles has been made.

4. In the light of arguments advanced by the defense counsel, learned DPP and the available record, it is observed that though the accused/petitioner is directly charged in the FIR but the offence for which the accused/petitioner is charged does not fall within the prohibitory clause of section 497 CrPC. Moreover, the accused/petitioner has remained in police custody but no confession or admission has been made by him. Similarly, no incriminating material has either been recovered from his possession or on his pointation. These facts are sufficient to throw the case of accused/petitioner within the ambit of further inquiry.
5. In these circumstances, bail petition in hand stands accepted and the accused/petitioner is admitted to the concession of bail provided he submit a bail bond in the sum of Rs. 100,000/- with two sureties each in the like amount to the satisfaction of Judicial Magistrate/MOD. The 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 police/judicial file.
7. This order is tentative in nature and would have no effect upon the trial of the accused/petitioner.

Dated: 19.07.2024




(SYED OBAIDULLAH SHAH)
Sessions Judge, Orakzai
at Baber Mela