

IN THE COURT OF SENIOR CIVIL JUDGE/JUDICIAL MAGISTRATE,
ORAKZAI

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Bail Petition.....17/BA of 2024.

Date of institution.....26.06.2024.

Date of decision.....29.06.2024.

Order.No.03

29.06.2024

Sr.PP for the state present. Counsel for the accused/petitioner present. Complainant also present. He stated that he does not wants to engage counsel rather to rely on the arguments of Sr.PP for the state. Arguments heard and record perused.

Accused/petitioner namely Gul Azam s/o Zikrya Khan, resident of Qaum Bar Muhammad Khel, Mirazi Khel, Tehsil Lower, District Orakzai are seeking his post arrest bail in case FIR No. 34 dated: 29.05.2024 U/S 324/34 PPC, Police Station Kurez Boya, District Orakzai.

According to Murasila, SHO PS Kurez Boya received information that firing has been made at the complainant Nowshid Ali S/O Malak Nazeer Ali aged about 35/36 years by his enemies. On the said information, he along with other police officials in the official vehicle reached Sra Mela Hujra, where the above named complainant reported that on 29.05.2024 in the morning, he on his personal motorcycle went to Khura Mela village in connection with the demise of deceased Bashir S/O Ali Zaman for condolence and on return at

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Senior Civil Judge/JM
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17:30 hours near Injaro Mela one Yasir S/O Shah Khan, Sajawal S/O Lal Bat Khan and Gul Azam S/O Zakriya Khan duly armed with firearms and when accused Sajawal saw him, he loaded his pistol and started firing at the complainant with the intention to kill, while accused Yasir and Gul Azam also opened indiscriminate firing with their Kalashnikovs at him with intention to kill. That the complainant speed up his motorcycle due to fear and to save his life and crossed the nearby turn and luckily escaped unhurt. He immediately went to his house and informed the police. Motive for the occurrence is previous blood feud enmity. The family of accused has killed father and two brothers of the complainant in the year 2010 and later on, they killed another brother of the complainant in the year 2017. He charged the accused for the commission of the offence.

Arguments heard available record perused which shows that the complainant has charged three accused duly armed with firearms, who allegedly opened indiscriminate firing at the complainant, but it is not appealable to prudent mind that how he escaped unhurt when the accused made firing at him only from the distance of 30 feet as shown in the site plan. The recovery memo shows that the investigation officer has recovered only one empty of 7.62 bore from the place of occurrence which is not in line with the report of the complainant. The motive for the occurrence as stated in the FIR as previous blood feud enmity and which is also obvious from the several applications of the complainant submitted against the accused on different forum. There is an unexplained delay of one and half hour in reporting the matter to

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5 the police. All the said facts are creating doubts about the mode and manner of the occurrence and thus, making the case of complainant against the accused/petitioner one of further inquiry. Neither the complainant has sustained any injury, nor any of the fire shots has hit his motorcycle which also makes doubts about the prosecution case and questions the applicability of Section 324 PPC, however the same will be seen at the trial stage.

In view of above, application in hand is allowed. Petitioner be released on bail subject to furnishing bail bonds in the sum of Rs. 90,000/- with two sureties each in the like amount to the satisfaction of this court. Copy of this order be placed on police as well as judicial record. Record be returned back to the quarter concerned.

File of this court be consigned to record room after necessary completion and compilation.

ANNOUNCED:

29.06.2024

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Orakzai at Babe Mela