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

Bail Petition.....18/BA of 2024.

Date of institution.....05.07.2024.

Date of decision.....10.07.2024.

Order.No.05
10.07.2024

DPP for the state present. Complainant in person present.
Accused/petitioner through counsel present. Record already received.
Arguments heard.

Accused/petitioner namely Shehzad Ali s/o Ghameen Ali is seeking his post arrest bail in case FIR No. 37, dated: 19.06.2024, U/S 324/34 PPC, Police Station Kurez Boya, District Orakzai.

According to report, complainant Israr Hussain reported the matter to SHO, PS Kurez Boya along with other police officials at the place of occurrence Sipoye, Haroon Khel, that he was busy in construction of Hujra at the place of occurrence on 19.06.2024 at 08:00 hours, meanwhile accused/petitioner Jawad Hussain S/O Sultan, Shehzad Ali S/O Ghameen Ali, Caste Sipoye started firing at the complainant with intention to kill, but they escaped unhurt. Motive for the occurrence is dispute over the landed property. He charged accused/petitioner Jawad Hussain and one Shehzad Ali for making firing at the person of the complainant and his sons. One Kamil

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Hussain endorsed the report. Later on, report of the complainant was incorporated into FIR.

After hearing arguments of the counsel for the accused/petitioner and learned DPP for the state. Available record perused.

The perusal of record shows that although the accused/petitioner along with one other accused namely Jawad Hussain have been charged directly in the FIR for ineffective firing at the person of the complainant, but the record shows that no site plan of the occurrence has been annexed with the case file. It has not been mentioned in the report that at which point the accused/petitioner was present at the time of occurrence and what was the distance between the accused/petitioner and complainant at the time of alleged firing. Furthermore, the report is silent about the presence of any witness at the time of occurrence. The accused/petitioner has spent about 24 hours in the police custody and since then, he is in Judicial Lock-up. There is no recovery of any weapon of the offence made by the police.

The accused/petitioner along with co-accused are charged for ineffective firing and it is astonishing to believe that how the complainant remained safe from the firing of the accused/petitioner and co-accused. The applicability of Section 324 PPC is to be seen at the trial stage and the case of prosecution is one of further inquiry. Co-accused namely Jawad Hussain has already been released on bail, thus, rule of consistency applies to the present accused/petitioner. It cannot be extract from the contents of the FIR that which one the accused was

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in possession of which kind of gun. The accused/petitioner is behind the bars for the last 5/6 days and the prescriptions of doctors annexed with the instant petition shows that the accused/petitioner is patient of CRF and has conducted renal transplant, therefore, I am inclined to accept the instant application and release the accused/petitioner on bail subject to furnishing bail bonds in the sum of Rs. 100,000/- 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:

10.07.2024

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Senior Civil Judge/JM,
Orakzai at Babe Mela