

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

Bail Application No. : 48/4 of 2024

Date of Institution : 20.07.2024

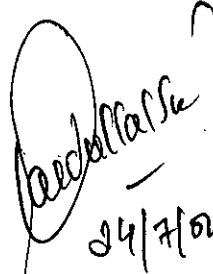
Date of Decision : 24.07.2024

KHAISTA GUL VS THE STATE ETC

ORDER

DPP, Umar Niaz for the State present. Mr. Khan Amir Bagti Advocate present for accused/petitioner present. Mr. Shabir Ahmad Khan Advocate present and submitted Wakalatnama on behalf of complainant. The complainant, Rasool Badshah present also present in person. Arguments heard and record gone through.

- (2). Accused/petitioner, **Khaista Gul** s/o Gul Rehman, after being refused to be released on bail vide order dated 19.07.2024 of the learned Judicial Magistrate-II, Tehsil Court Kalaya, seeks his post-arrest bail in case FIR No. 10, dated 09.06.2024, u/s 406/34 PPC of Police Station Kalaya, wherein, as per contents of FIR, the complainant, Rasool Badshah made a report to the local police vide DD No. 9, Dated 31.05.2024 to the fact that he being a Government contractor, got a contract from one, Liaqat Ali. An agreement deed was signed between him and a private Tikadar Meer Abbas, on the grounds that Meer Abbas has purchased a crush machine plant worth Rs. 22,70000/- which was repaired/renovated by spending Rs. 24,30,270/ with the consent of Meer Abbas where after they became co-partners sharing equal loss and profit. Besides that the complainant has also paid debt of Rs. 645,000/- liable to be paid by Meer Abbas to one Khaji. The complainant appointed the accused/petitioner as a watchman and handed over a licensed Kalashnikov to take care of the


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plant and its running machineries. The accused/petitioner with the connivance of Meer Abbas had taken the plant and kept the Kalashnikov in his (accused/petitioner) possession. The matter was referred and inquired by local police, on the basis of which the instant FIR was registered.

(3). Counsel for the accused/petitioner argued that the accused/petitioner has falsely been charged in the instant case, that the accused/petitioner has not been directly charged in the FIR. On the other hand, learned DPP for the state put forward his arguments that the recovery in shape of Kalashnikov has been made from accused/petitioner which connects him with the commission of offence.

2. In the light of arguments advanced by the defense counsel, learned DPP and the available record, it is observed that the accused/petitioner is not directly charged in the FIR and 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. These facts are sufficient to throw the case of accused/petitioner within the ambit of further inquiry.

3. 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 this court. The sureties must be local, reliable and men of means.

4. 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.

5. This order is tentative in nature and would have no effect upon the trial of the accused/petitioner.
Dated: 24.07.2024



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

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