

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

Petition No. 81/4 of 2024

“Khyber... Versus ... The State”

Order---03

Accused/petitioner through counsel present.

26.08.2024

DyPP on behalf of prosecution/State is present.

Accused/petitioner Khyber s/o Memla Gul seeks his post arrest bail in case FIR No. 67 dated: 30.07.2024 under sections 324, 353 PPC and 15AA of Kalaya Police Station, Orakzai.

Concise facts of the case are that local police received a spy information about presence of proclaimed offender Khyber son of Memla Khan near Karghan Wali Patty, whereat, they rushed to the spot, where a person on seeing the police party opened fire through his pistol on police with intention to kill them; that police also opened cross fire to defend themselves; that when the firing stopped, they overpowered him and recovered from his possession a 9 mm bore pistol no. SPA121 along with fixed charger emitting fresh smell of gunpowder; that the pistol was sealed into parcel no. 01 and the accused was arrested on the spot, hence, the report.

Arguments heard and record perused.

Perusal of the record reveals that accused/petitioner is charged for ineffective firing on police party; therefore, the applicability of section 324 shall be seen at the time of framing of charge by the learned trial court. As per the site plan, the maximum distance between police party and accused/ petitioner

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was forty paces and counter firing was made between them but strange enough that neither accused/petitioner nor anyone from the police party got injured in the incident; therefore, this is yet to be determined during trial whether accused/petitioner had any intention to kill them or not because they were completely under the range and control of accused/petitioner, which makes it a case of further inquiry. Recovery of pistol was shown to has been allegedly effected from direct possession of accused/petitioner while five empties had also been recovered from the spot, however, no FSL report has been received so far so as to determine as to whether the fires were made from the said pistol or not. As per available record, accused/petitioner has not made a confession and all the above facts make the case of accused/petitioner one of further inquiry.

So, in the circumstances the bail application is accepted and accused/petitioner is admitted to bail provided he furnishes bail bonds in the sum of Rs. 100,000/- with two sureties each in the like amount to the satisfaction of this court. Sureties must be local, reliable and men of means. My order is tentative in nature and shall have no bearings on merits of the case. Copy of this order be placed on judicial and police files.

Requisitioned record is returned to quarter concerned and file of this court consigned to record room after necessary completion and compilation.

Announced
26.08.2024


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