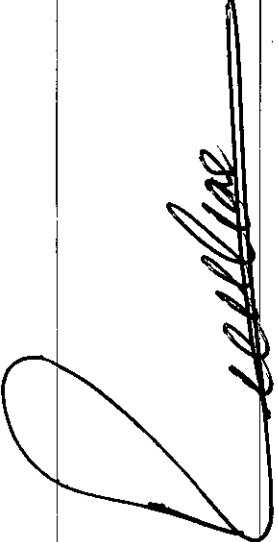


17

FORM "A"
FORM OF ORDER SHEET

IN THE COURT OF SYED ABBAS BUKHARI, CIVIL JUDGE/JUDICIAL MAGISTRATE/CJ-II, KALAYA ORAKZAI
Case Title: State Vs Nadeem Khan etc

Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order 35	31.07.2024	<p>APP for the state present. Accused facing trial present. Complainant present.</p> <p>Vide this order I intend to dispose of instant application filed u/s 249-A Cr.P.C.</p> <p>Arguments already heard and record perused.</p> <p>Now on perusal of the available record and valuable assistance of the learned counsels for the parties and learned APP for the stated, this court is of the humble view that accused petitioners through instant application allege that prosecution has recorded statements of six PWs in the instant case so far and upon perusal of the evidence so far recorded by the prosecution there is no probability of conviction of accused petitioners at later stage. Contrary to this learned counsel for the complainant and APP for the state vehemently opposed the instant application and argued that accused have been directly charged in the instant case. They further argued that there exist no dent in the prosecution evidence and furthermore, the application in hand is pre-mature, hence the prosecution may kindly be allowed to produce their remaining evidence in order to bring home the charge against accused facing trial.</p> <p>In given circumstances, perusal of the evidence, so far recorded by the prosecution, in the instant case would reveal that PW-01 (Moharir) has deposed in his cross examination that there is no motive behind the occurrence. He further deposed that the dates mentioned in OPD ticket are 12.09.2022 and 13.09.2022. In given circumstances the question arise that when the alleged occurrence took place on 22.07.2022, why the injured were examined after about two months of the alleged occurrence.</p> <p>PW-02 has deposed in his cross examination that accused facing trial themselves came to the PS and thereafter their card of arrest was issued on 11.09.2022.</p> <p>PW-04 (IO) has deposed in his cross examination that it is correct that nothing has been recovered from the spot. He further stated that there is no criminal history of the accused facing trial.</p>



31.07.2024.

SYED ABAAS BUKHARI
Civil Judge/JM-II
Tehsil Courts Kalaya

FORM "A"
FORM OF ORDER SHEET

IN THE COURT OF SYED ABBAS BUKHARI, CIVIL JUDGE/JUDICIAL MAGISTRATE/C.I-II, KALAYA ORAKZAI
Case Title: State Vs Nadeem Khan etc

Contind
order 35

31.07.2024

PW-05 (doctor) deposed in his cross examination that it is correct that kind of weapon is sharp object. It is also correct that the case is not of fire arm injury.

It is also pertinent to mention here that complainant has previously alleged in the FIR that accused facing trial were armed with deadly weapons and they opened fire at him, due to which he sustained fire arm injury over his head and he further stated that there is no motive behind the alleged occurrence. In given circumstances, statement of PW-05 negates the story narrated by complainant and thus has deposed that the injury is not fire arm injury. Furthermore, it is also pertinent to mention here that as pre version of complainant there is no motive behind the occurrence, hence in circumstances, the question arise that in absence of motive why accused facing trial opened fire at complainant. Moreover, motive is the basic ingredient in criminal cases for the commission of offence. It is also pertinent to mention here that no recovery in the instant case has been effected from the spot or from the direct possession of the accused facing trial, which also creates serious dents in the prosecution case.

It is also pertinent to mention here that perusal of the medical record available on the record in shape of OPD ticket would reveal that the dates mentioned over the same are 12.09.2022 and 13.09.2022 i.e. the examination of the injured was conducted after about two months of the occurrence, which also creates serious dents in the prosecution case and further make the occurrence doubtful. Hence, in the light of above discussion, as there exist serious dents in the prosecution evidence so far recorded in the instant case and there exist no probability of conviction of accused facing trial at later stage rather proceeding further with the trial would be a futile exercise and would result in wastage of precious time of this court as well as parties. Hence in circumstances, instant application filed by accused facing trial under Section 249-A Cr.P.C. is hereby allowed and accused facing trial namely **Nadeem Khan s/o Marwat Khan, Tariq s/o Ambil Khan and Suleman Khan s/o Alam Khan** are hereby acquitted from the charges levelled against them. Their sureties stand

SYED ABBAS BUKHARI
Civil Judge/JM-II
Tahsil Courts Kalaya

31-07-2024
[Signature]

[Signature]

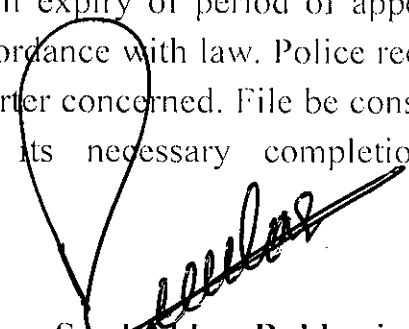
19

FORM "A"

FORM OF ORDER SHEET

IN THE COURT OF SYED ABBAS BUKHARI, CIVIL JUDGE/JUDICIAL MAGISTRATE/CI-II, KALAYA ORAKZAI

Case Title: State Vs Nadeem Khan

Contind order 35	31.07.2024	<p>discharged from the liability of bail bonds. Case property, if any, be kept in tact till expiry of period of appeal and thereafter be dealt in accordance with law. Police record be returned forthwith to quarter concerned. File be consigned to record room after its necessary completion and compilation.</p> <p><u>Announced</u> 31.07.2024</p> <p> Syed Abbas Bukhari Judicial Magistrate-II Kalaya, Orakzai.</p>
---------------------	------------	---