

**IN THE COURT OF JUDICIAL MAGISTRATE-I, KALAYA, ORAKZAI**


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Bail Petition ..... 80/4 of 2024.  
 Date of institution.....18.09.2024.  
 Date of decision.....19.09.2024

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**Order.No.04****19.09.2024**

**ZAHIR KHAN**  
**Civil Judge/JM**  
**Kalaya Orakzai**

*M.M. 10. 1)*  
*19/09/2024*

None present for the state. On previous date, notice of strike was received from the office of DPP, Orakzai and case was adjourned for today accordingly. Fresh notice was issued to public prosecutor but no one appeared today on behalf of prosecution. This court has got no other option but to dispose of the bail petition within stipulated period of time. Father of accused/petitioners is present. Complainant Lal Asghar is absent. Complainant has already recorded statement before the court regarding compromise. Written arguments on behalf of counsel for accused/petitioners submitted and record gone through.

Accused/petitioners namely Umar Sadiq and Arshad Khan Ss/O Noor Muhammad are seeking their post arrest bail in case FIR No. 16 dated: 12.09.2024 U/S 379/34 PPC, Police Station Dabori, District Orakzai.

Record shows that accused/petitioners are charged for stealing sheep of complainant named above. The alleged occurrence took place on 08.09.2024, reported on 12.09.2024 and FIR was registered on 12.09.2024. There is unexplained delay of about 04 days in lodging of FIR. Source of information regarding involvement of

accused/petitioners in the commission of the offence has not been disclosed. The offence for which accused/petitioners are charged does not fall within the ambit of prohibitory clause of section 497 Cr.P.C and in such like cases grant of bail is a rule and refusal an exception. No extra ordinary circumstances exist to justify departure from the said rule. Nothing incriminating has been recovered from possession of the accused/petitioners or on their pointation. There is no criminal history of accused/petitioners regarding their involvement in such like cases. Accused have not confessed their guilt before the court. Secondly, complainant has already patched up the matter with the accused/petitioners through compromise. Complainant has already recorded his statement wherein, he has stated that he has got no objection on the release of accused/petitioners on bail on the basis of compromise. Copy of CNIC of complainant is Ex.PA. Although, the offence is not compoundable, however, in plethora of judgments of the superior courts, it is held that the factum of compromise could be considered as a ground for grant of bail in the interest of justice and equity. When victim is not willing to prosecute the accused any further, the court would not compel the parties to do so.

ZAHIR KHAN  
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Consequently, application in hand is allowed. Petitioners be released on bail subject to furnishing bail bonds in the sum of Rs. 50,000/- (fifty thousand) 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. The record be returned back to quarter

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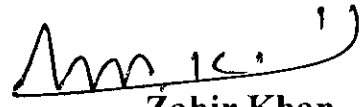
Umar Sadiq etc vs State

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concerned while file of this court be consigned to record room after necessary completion and compilation.

**ANNOUNCED:**

**19.09.2024**



**Zahir Khan**

JMIC-I, Tehsil Kalaya,  
Orakzai