

4

AMIN ULLAH VS NIAZ KHAN ETC
BCA NO. 106/4, DATED 01.11.2024

IN THE COURT OF BAKHT ZADA ADDITIONAL SESSIONS JUDGE-I,
ORAKZAI AT BABER MELA

BCA No. : 20/4 of 2022
Date of Original Institution: 29.10.2024
Date of transfer-in : 20.11.2022
Date of Decision : 20.11.2022

AMIN ULLAH VS NIAZ KHAN ETC

ORDER

20.11.2024

Case file received from the court of learned

AD& SJ-II, Orakzai, pursuant to order of the Hon'ble District & Sessions Judge, Orakzai bearing endorsement No. 7204-13/DSJ/ORK, dated: 16.11.2024, in compliance with directions contained in posting order of Mr. Abdul Basit, AD& SJ, Orakzai (to district Swat) bearing Endorsement No. 9562-9662/ Admin, Dated 06th November, 2024 of Peshawar High Court, Peshawar. It be registered

Sr. PP for the State present.

Petitioner/complainant in person alongwith counsel present. Respondents/accused are present alongwith their counsel Sana Ullah Khan Advocate.

Sana Ullah Khan
20-11-2024

BAKHT ZADA
Addl: District & Sessions Judge-1,
Orakzai at Hangu

(2). Petitioner/complainant Amin Ullah s/o Rafi Ullah has submitted the instant Bail Cancellation application against respondents/accused namely, (1) Niaz Khan, (2) Zubair Khan sons of Malak Mehraban and (3) Muhammad Nawaz s/o Niaz Khan all residence of Dowri Khel central Orakzai, who were charged in case FIR no. 53 dated 24.09.2024 registered u/s 365, 392,337 A(ii), 337

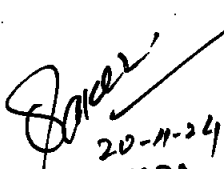
(5)

AMIN ULLAH VS NIAZ KHAN ETC
BCA NO. 106/4, DATED 01.110.2024

A(iii), 337 F(i) 342/506/382/447/148/149 PPC of PS
Mishti Mela.

(3). The petitioner/complainant has alleged that the respondents/accused were released by the Judicial Magistrate-II, Kalaya vide his order dated 22.10.2024. That solid evidence against the respondents/accused is available on the case file to the effect that abductee was recovered from the house of accused. That in the said circumstances releasing of accused on bail is injustice with the complainant, therefore, by the acceptance of the instant bail cancellation application, the bail granted to the accused earlier by the Judicial Magistrate -II Kalaya vide his order dated 22.10.2024 may be recalled.

(4). Arguments heard and available record perused which shows that learned Judicial Magistrate has released the above-mentioned respondents/accused on bail vide his order dated 22.10.2024 wherein he has categorically mentioned several grounds for release of the accused on bail but in the instant bail cancellation application no reference has been made to the grounds mentioned in section 497 (5) Cr. PC and once bail is granted by the court of competent jurisdiction on the basis of valid reasons, the same cannot be recalled/cancelled until and unless exceptional grounds are established by the prosecution. No exceptional grounds are mentioned


20-11-24
BAKHT ZADA
Addl: District & Sessions Judge-1,
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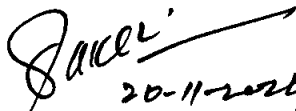
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AMIN ULLAH VS NIAZ KHAN ETC
BCA NO. 106/4, DATED 01.110.2024

in the application, furthermore, there is no circumstances mentioned by the petitioner that the accused/respondents can misuse their liberty by indulging in similarly criminal activities. Similarly, there is no apprehension that the accused/respondents can made any attempt to temper the persecution evidence. Furthermore, no reasonable grounds have been brought on record under the law, therefore the instant application for bail cancellation being devoid of merits is hereby dismissed. Record be returned to quarter concerned.

- (5). File of this court be consigned to record room after its necessary completion and compilation.

Pronounced
20.11.2024


20-11-2024
BAKHT ZADA
Addl: Sessions Judge-I, Orakzai
at Baber Mela