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BA No. 71/BA of 2020

Or 02
03-07-2020

Case file of Bail Application received from the court of Worthy D&SJ, Orakzai for disposal. Let it be registered.

Present:

Sana Ullah Khan Advocate for accused/petitioners
Complaint Muhammad Ikhlq, in person
APP Syed Aamir Shah for State

The accused/petitioners (1) **Khan Zaman** s/o Ghulam Rasool, (2) **Meer Badshah** s/o Meer Hassan Shah, (3) **Mehboob Khan** s/o Ali Badshah, (4) **Habib Khan** s/o Noor Mast Khan, (5) **Ihsan Ullah** s/o Miras Khan, (6) **Ameer Janan** s/o Haji Itebar Shah, (7) **Adil Khan** s/o Sardar Khan, (8) **Nawab Khan** s/o Malak Akbar Khan and (9) **Shaheed Ullah** s/o Peer Gul; all belonging to Mishti caste, tapa Darvi Khel, Narai Kanda, Central Orakzai; are seeking **post-arrest bail** in case **FIR no. 25** dated **10-04-2020**, u/ss. **436/427/452/148/149 PPC** registered in PS Lower Orakzai.

The facts of the case, according to the FIR, are; that the SHO was on patrol of the area when he received information that some people have burnt down the house of complaint, Muhammad Ikhlq, in village Narai Kanda, Mishti Mela; that the SHO reached the spot with a police party and saw the house on fire; that the complaint met the SHO on spot and reported that he was present in the said house with his family members, when 19 persons (including accused/petitioners) entered into his house bearing firearms; that these persons forcefully evicted the inmates and then set the house on fire; that the complaint party could not do anything due to fear. The motive was stated to be that one Faiz Ur Rehman, of the same village, was murdered and accusation was cast on Ishaq, a nephew of complaint; the complaint stated the accused party set his house on fire being angry due to murder of said Faiz Ur Rehman. The SHO sent report to the PS, where the instant case was registered. Several days later the complainant

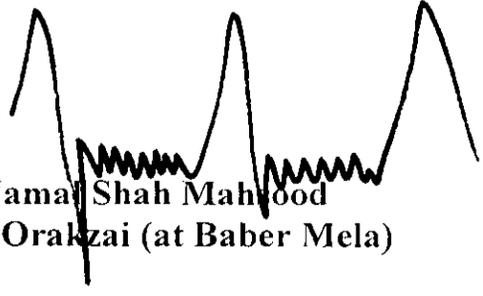
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got recorded his statement u/s 164 CrPC, wherein he nominated 03 more accused.

Today the complainant stated before court that he does not want to engage private counsel; arguments of counsels for the accused/petitioners and APP for the State heard; the record perused. Tentative assessment of which, for the purpose of deciding instant petition, shows that the bail petitions of 04 co-accused, namely Haji Muhammad Ayaz, Amjad Khan, Subidar Rehman Shah and Shams ur Rehman, have been allowed by the Honorable Peshawar High Court, judgement dated 15-06-2020 (passed in Cr.Misc.BA no. 1360-P/2020 and Cr.Misc.BA no. 1364/2020), on the ground of further inquiry - based on the conflict in the statement of complainant made in FIR and the statement made u/s 164 CrPC. All the accused have been attributed similar role. Thus, the principle of consistency lies in favour of present accused/petitioners as well.

In view of the above circumstance, the accused/petitioners have made out a case of further inquiry into their guilt. Resultantly, the instant bail petition is accepted and it is directed that the accused/petitioners, **Khan Zaman, Meer Badshah, Mehboob Khan, Habib Khan, Ihsan Ullah, Ameer Janan, Adil Khan, Nawab Khan and Shaheed Ullah**, may be released on bail in the instant case, subject to furnishing bail bonds in the sum of **Rs 100,000 (one lac)** each, with two sureties in the like amount, to the satisfaction of this court. Record of the police be sent back along with a copy of this order, while this file be consigned to Record Room after its necessary completion and compilation.

Announced
03-07-2020


Jamal Shah Mahood
ASJ-I, Orakzai (at Baber Mela)