

Or 03
25-08-2020

Present:

Sana Ullah Khan Advocate for accused/petitioner
APP Syed Amir Shah for the State
Complaint, Muhammad Nawaz

Through the instant petition accused/petitioner **Wazeer Khan** s/o Yar Khan; caste Stori Khel, tappa Mala Khel; r/o village Tarkho Saam, Orakzai; who is charged in case **FIR No. 93**, dated 07-08-2020, u/s **392/34 PPC** of PS Lower Orakzai (Kalaya) is seeking **post-arrest bail**.

Facts of the case are as follows: that, on 02-08-2020, the complainant made a report in the PS, which was entered as madd no. 06 in the Daily Dairy of the PS; he stated that he, in company of 03 other persons, had arrived in village Tarkho Saam on 31-07-2020, in his motor car (U-4809/Karachi, model 1986) for business with Mujeeb (a co-accused); that, on 02-08-2020, while they were about to return, his car was snatched forcefully on gun point by Mujeeb, Jandol, Rab Nawaz (co-accused) and Wazir (accused/petitioner); that the accused claimed that they had outstanding amount of Rs. 110,000 against Shafiullah (one of the companions of complainant) and that they will not return the motorcar unless the outstanding amount is paid. The complainant further claimed that the wallet of Shafiullah, having Rs. 20,000 etc., was also in the motorcar. On 04-08-2020, the SHO obtained legal opinion from office of DPP, after which FIR in the present case was registered on 07-08-2020.

The complainant stated that he does not want to engage private counsel. Arguments of counsel for the accused/petitioner and APP for State heard. In light of arguments, the tentative assessment of record, for the purpose of deciding instant petition, shows that:

1. Admittedly, there was a civil dispute between the complainant party and the accused party; the place of occurrence was not mention in madd no. 06, however, in FIR and site-plan it is

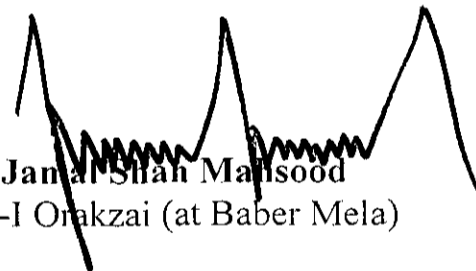
JAMAL SHAH MAHSUD
Addl: District & Sessions Judge-I,
Orakzai at Hangu

shown as hujra of a co-accused. In these circumstances the allegation of robbery becomes doubtful.

2. No documents have been brought on record to establish that the complainant was owner or possessor of the motorcar in question, before the filing of instant case.
3. No specific role has attributed to the present accused/petitioner in the FIR, neither any recovery has been affected from him after his arrest.
4. There is nothing on record to establish that the accused/petitioner has previously remained involved in any criminal case.

In view of the above circumstance, the accused/ petitioner has made out a case of further inquiry into his guilt. Resultantly, the instant petition is **accepted** and it is directed that the accused/petitioner, **Wazeer Khan**, may be released on bail in the instant case, subject to furnishing bail bonds in the sum of **Rs 100,000 (one lac)**, with two sureties each 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
25-08-2020


Janat Shah Mahsood
ASJ-I Orakzai (at Baber Mela)