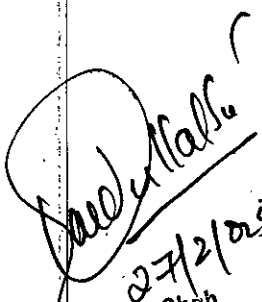


(4)

IN THE COURT OF SESSIONS JUDGE, ORAKZAI AT BABER MELA

Case Title: Shahid Khan VS State

FIR no. 07, Dated: 08-01-2025, u/s 506/34 PPC, PS Kureza

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 No.04	26.02.2025	Sr. PP, Abdul Qasim for the State present. Accused/petitioners, Shahid Khan and Gohar Ayyub on ad-interim pre-arrest bail in person present. Complainant present in person. Lawyers are on strike on the call of Khyber Pakhtunkhwa Bar Council. Adjourned for arguments on 27.02.2025.  (SYED OBAIDULLAH SHAH) Sessions Judge, Orakzai at Baber Mela
Order No.05	27.02.2025	DPP, Umar Niaz for the State present. Accused/petitioner, Shahid Khan and Gohar Ayub on ad-interim pre-arrest bail in person along with their counsel present. Complainant along with his counsel present. The accused/petitioners, Shahid Khan and Gohar Ayub seek confirmation of their ad-interim pre-arrest bail in case FIR No. 07, Dated 08.01.2025, u/s 506/34 PPC of Police Station Kurez Boya wherein, as per contents of FIR, the complainant vide naqal mad no. 04 of 09.01.2025 at about 0830 hours made a report to the police to the fact that on the eventful day, at about 1800 hours, he loaded a truck no. 4519/Z from coal and departed at 2045 hours from coal mine no. B-12 situated in Bashi Patay. The driver of the truck was Wazeer Khan son of Malik Ameen Janan. That on the way, at 2100 hours, the accused/petitioner Shahid Khan armed with pistol forcibly stopped their truck and started altercation. Meanwhile, the Accused/petitioner Gohar Ayub made  27/2/25 Syed Obaiddullah Shah District & Sessions Judge Orakzai at Baber Mela

(S)

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
Contin. Order No.05		aerial firing from a nearby mountain to criminally intimidate the complainant. The matter was referred and inquired by the local police on the basis of which the instant FIR was registered. Perusal of record reveals that the accused/ petitioners have neither been arrested on the spot nor anything incriminating has been recovered from their possession or on their pointation. Astonishingly, it is a question to be ponder upon that how the complainant identified the accused/petitioners as occurrence took place at night time and the firing was made from a considerable distance. There is a civil dispute between the parties over landed property; therefore, mala fide and false implication of the accused/petitioners cannot be ruled out. Above all, the superior courts in multiple judgments quoted that in absence of malafidi or ulterior motive, the court can exercise its judicial discretion in case the accused/ petitioner succeeds to make out his case for regular bail. Reliance is placed on 2011 YLR 1366 which states that; <i>"Where arrest of accused was not necessary requirement of the Investigation Agency, sending accused behind the bars only for the reason that he could he could be released on bail after his arrest was altogether unjustified".</i> While 2003 P Cr. LJ619 also quotes that; <i>"In Absence of malafidi or ulterior motive on the part of police is not allowed to debar an accused from concession of bail if he succeeds to make out his case for bail".</i> In these circumstances, no useful purpose of the prosecution would be served to commit the

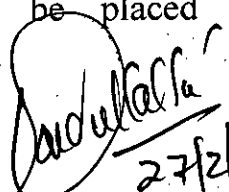
Syed Obaidullah Shah
District & Sessions Judge
Orakzai at Baber Me'a

(6)

IN THE COURT OF SESSIONS JUDGE, ORAKZAI AT BABER MELA

Case Title: Shahid Khom VS State

FIR no. 07, Dated: 08.01.2025, u/s 506/34 PPC, PS Kurrez

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	accused/petitioners to police custody except the probability of injustice harassment of the police. Therefore, in the light of above, the bail petition in hand stands accepted and ad-interim pre-arrest bail earlier granted to the accused/petitioners stands confirmed on the strength of existing bail bonds. Order announced. File of this court be consigned to record room after its necessary completion and compilation. Copy of this order be placed on judicial/police file. Dated: 27.02.2025  (SYED OBAIDULLAH SHAH) Sessions Judge, Orakzai at Baber Mela

