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

Bail Petition ..... 34/4 of 2023.

Date of institution.....29.04.2023.

Date of decision.....02.05.2023.

Mr. Sana Ullah Advocate for accused/petitioner. Asad Ijaz Advocate for complainant
APP for the state

Order.02
02.05.2023

APP for the state present. Counsel for accused/petitioner present. Complainant along with counsel present. . Record received.

Today, complainant appeared before the court and stated at the bar that he has effected compromise with accused/petitioner outside the court and he has got no objection if accused/petitioner is released on bail or subsequently acquitted. His statement is separately recorded which is duly thumb impressed/signed by him. Photocopy of his CNIC is Ex-PA.

Accused/petitioner namely Shamshir S/O Zelawar Shah is seeking his post arrest bail in case FIR No.43, Dated:25.04.2023 U/S 381-A PPC, PS Kalaya.

Although the offences are 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 complainant is not willing to prosecute the accused any further, the court would not compel the parties to do so as "you can take the horse till the water but you cannot

02/05/023

ZAHIR KHAN
Civil Judge/JM
Kalaya Orakzai

make him drink". On merits, the alleged occurrence took place on 24.04.2023 and F.I.R was registered on 25.04.2023. There is unexplained delay of about 01 day in lodging of F.I.R. There is no eye-witness to the occurrence. Source of information regarding involvement of accused/petitioner in the commission of the offence has not been disclosed. There is no criminal history of accused/petitioner as per available record. More so, Accused/petitioner has not confessed his guilt before the court. The offence does not fall within the ambit of prohibitory clause of section 497 Cr.PC. Investigation has already been completed and accused/petitioner is no more required to the local police for investigation and no useful purpose would be served by keeping the accused/petitioner behind the bar.

Resultantly, application in hand is allowed. Petitioner be released on bail subject to furnishing bail bonds in the sum of Rs. 50,000/- with two reliable 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. Record be sent back to the quarter concerned forthwith, while file of this court be consigned to record room after necessary completion and compilation.

ANNOUNCED:
02.05.2023

Zahir Khan
JMIC-I, Kalaya, Orakzai