

**BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE**  
**TRIBUNAL PESHAWAR**

**Service Appeal No. 1501/2022**

Shaukat Ali Retd PSHT .

..... Appellant

**VERSUS**

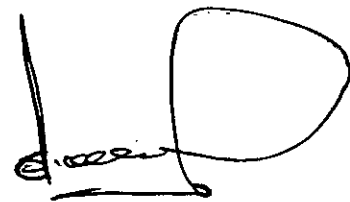
Govt of KPK

..... Respondent

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Dated :05/07/2023



Next date 04/08/23

Place of Hearing

Peshawar.

**BEFORE THE SERVICE TRIBUNAL KHYBER PAKHTUNKHWA**

**Service Appeal No: 1501/2022**

**Shaukat Ali Retd PSHT.....Appellant** Khyber Pakhtunkhwa Service Tribunal

**Versus**

**Govt of KPK.....Respondents**

Diary No. 6290  
Dated 05/07/23

**Joint Parawise Comments on behalf of Respondent No. 1-3**

**Preliminary objections:**

- I. That the appellant has got no cause of action to file the instant appeal.
- II. That the appellant has not come to this honorable tribunal with clean hands.
- III. That the Appellant has concealed material facts from this honorable tribunal.
- IV. That the Appellant is estopped by his own conduct to bring the present appeal.
- V. That the appeal is mis-joinder and non-joinder of necessary parties.
- VI. That the Appellant is not entitled for the relief through this honorable tribunal as he remained absconder in the period and the competent authority has acted as per laid down rules and policy.
- VII. That the Appeal is barred by law and limitation.

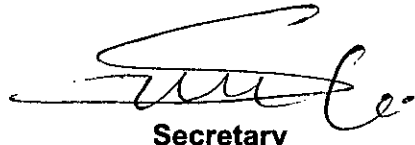
**ON FACTS.**

- 1. That para-1 pertains to record.
- 2. That the appellant was charged in FIR No. 73 U/S 380, 411, 457 PPC P.S Ratta Amral Rawal Pindi (Attached as **Annexure-A**), the appellant was suspended under the rules.  
Furthermore the appellant remained absconder and the case is still under trial.
- 3. That as stated above, the appellant was suspended under the rules and policy and remained absconder from the court of law (Suspension order attached as **Annexure-B**).
- 4. That the case of the appellant is under trials and not decided till date, however during the stated period, the appellant was absconder, thus not entitled to the relief.

- 5. That as stated above that the appellant remained absconder from the court of law and he is not entitled for leave with pay as per rules and policy. (Leave without pay notification is attached as **Annexure-C**).
- 6. Legal, the respondent department also submits on the following grounds inter alia.

**Grounds:**

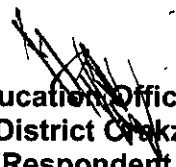
- A. **Incorrect and denied:** The act of the respondent department is according to the rules and policy as the appellant remains absconder.
- B. **Incorrect and denied:**The appellant has been treated as per law, rules and policy.
- C. **Incorrect and denied:**Detail reply has already been submitted under abovefacts.
- D. **Incorrect & denied:**That appellant has been dealt by the competent authority in accordance with law and rules and no discrimination has been made to the appellant.
- E. **Incorrect and denied:**Respondent department also seek permission to advance other grounds and proofs at the time of arguments. In light of the above stated factual position, it is humble prayed that appeal may very kindly be dismissed.



Secretary  
Elementary & Secondary Education  
Khyber Pakhtunkhwa  
(Respondent No. 1)



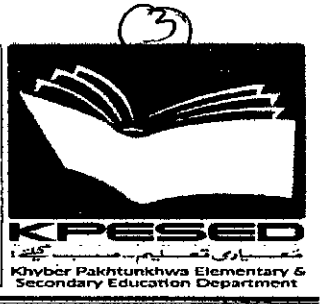
Director  
Elementary & Secondary Education  
Khyber Pakhtunkhwa  
(Respondent No. 2)



District Education Officer (male)  
District Orakzai  
(Respondent No.3)



**OFFICE OF THE DISTRICT EDUCATION OFFICER-ORAKZAI**  
 Umar Plaza, Main Kohat Road, Muslimabad-Hangu.  
 Phone # 0925-690017 Fax # 0925-690017  
 Email: deorakzai2020@gmail.com



**BEFORE THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No.\_ 1501/2022

Shaukat Ali Retd PSHT ..... **APPELLANT**

**VERSUS**

Govt of KPK & Others.....**RESPONDENTS**

**AUTHORITY LETTER**

It is certified that Mr. Asad Ullah SDEO Upper (BPS-17) of this office is hereby authorized to appear before the Khyber Pakhtunkhawa Service Tribunal, Peshawar on fixed date.

**DISTRICT EDUCATION OFFICER, (M)  
 ORAKZAI**

**BEFORE THE KHYBER PAKHTUNKHAWA SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. \_ 1501/2022

Shaukat Ali Retd PSHT ..... **APPELLANT**

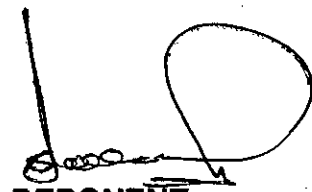
**VERSUS**

Govt of KPK & Others..... **RESPONDENTS**

**AFFIDAVIT**

I, Mr. Asad Ullah SDEO (BPS-17) Focal Person for Litigation-Orakzai Elementary & Secondary Education Department, do hereby solemnly affirm and declare that the contents of the accompanying compliance Report, submitted by the respondents, are true and correct to the best of my knowledge and belief and nothing has been concealed from this Honorable Court.

It is further stated on oath that in this appeal, the answering respondents have neither been placed Ex-parte nor their defense has been struck off.

  
**DEPONENT**

**Asad Ullah**  
**SDEO (Lower) Focal Person**  
**For Litigation, Orakzai**  
**CNIC: 14101-1426407-9**  
**MOBILE NO.0333-9671304**


Better Copy

ابتدائی اطلاعی رپورٹ

پولیس فارم نمبر 24-5-1

راولپنڈی ای ٹیک نمبر RA-2/8/2021-438

تھانہ: رتہ امرال ضلع

تاریخ: 08-02-2021 وقت 11:40 بجے

علت نمبر: 73/21

1-	تاریخ وقت رپورٹ	تاریخ 08-02-2021 وقت 11:40 بجے
2-	نام و سکونت اطلاع دہندہ مستثنیت	اختر نواز ولد شیخ خان پتہ ڈاگ خانہ خاص رسال تحصیل کرکھان ضلع چکوال جو جوہ پتہ MSB ڈھوک ہے ہنگیال راولپنڈی پیشہ نیجر MCB ڈھوک ہنگیال راولپنڈی شناختی کارڈ نمبر: 1-8163120-42301 فون نمبر: 0333-3833289-0333 مرحلہ مرسلہ: انصار حسین SI تھانہ رتہ امرال راولپنڈی
3-	مختصر کیفیت جرم (معد دفعہ) حال اگر کچھ کو گیا ہے	457 ت پ 280 ت پ روپیہ: قیمت: 17490253
4-	جائے وقوعہ سے فاصلہ تھانہ اور سمت	بھدر قبر MCB بینک ڈھوک ہنگیال قریب 1.5 کلومیٹر پنجاب شمال از تھانہ بیت نمبر 2: پورنگ روڈ، ڈھوک ہنگیال، محلہ قارونہ ریلوے ہسپتال محلہ نالہ لئی
5-	کارروائی متعلقہ تفتیش اگر اطلاع درج کرنے میں کچھ توقف ہوا ہو تو اس کی وجہ بیان کی جائے	حسب آمد درخواست بشکل استغاثہ مقدمہ درج ہوا

دستخط: محمد اقبال

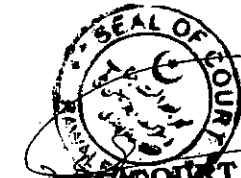
بیلک نمبر نمبر: R-1720

عہدہ: SI ٹیلی فون نمبر: 0300-5237469

(ابتدائی اطلاع نیچے درج کریں)

Attest

بخدمت جناب SHO صاحب تھانہ رتہ امرال راولپنڈی جناب عالی اگر ارش ہے کہ میں اختر نواز جو کہ MCB ڈھوک ہنگیال میں آپریشن نیجر تعینات ہوں آج صبح مورخہ 08-02-2021 کو 8:30 پر میں پہنچا اور برانچ کو کھولا تو برانچ کا Main Cash Vault اور Locker Room کا دروازہ کھلا ہوا تھا جبکہ کیش والٹ میں سے بھی لوٹے ہوئے تھے میں نے 8:45 منٹ پر سارے واقعے کی اطلاع اپنے Regional Office کو دی اور اس کے بعد 15 پر کال کر کے پولیس کو مطلع کیا بینک انتظامیہ نے مجھے FIR درج کرانے کے لیے مجاز کر دیا ہے میں جو کہ آپریشن نیجر MCB ڈھوک ہنگیال میں ان تا معلوم افراد کے خلاف دعویہ در ہوں جنہوں نے 39 لاکھ روپے 17,490,253 مالیت کا کیش لوٹا ہے اور بینک کی املاک کو نقصان پہنچایا ہے براہ مہربانی ان تا معلوم افراد کے خلاف مقدمہ درج کیا جائے اور حسب ضابطہ کارروائی عمل میں لایا جائے مزید بینک سے لوٹا گیا کیش اور لاکرز سے لوٹی گئی قیمتی اشیاء برآمد کروائے جائیں مین نوٹس ہوگی دستخط بخرواف انگریزی اختر نواز آپریشن نیجر MCB ڈھوک ہنگیال راولپنڈی - CNIC No: 42301-8163120-8163120-42301 MOB No. 0333-3833289 BRACNH TEL # 05182164 1 T/ASI مدثر رحمان HC/3560 الطاف حسین HC/4098 قیصر HC/8543 C/ بروقتہ پہنچا ہوں ساکن بالانے میرے پیش ہو کر درخواست تحریری میرے پیش کی مضمون درخواست وحالات واقعات سے سردست صورت جرم 380/457 ت پ ہائی جا کر تحریر بشکل استغاثہ بغرض اندراج مقدمہ بدست قیصر HC/8543 تھانہ مرسل ہے۔ PFSA مع IT انچارج ٹیم بروقتہ مصروف تفتیش ہوں مقدمہ درج رجسٹر کر کے نمبر مقدمہ سے مطلع کیا جاوے از موقعہ بوقت 11:20 بجیدان انصار حسین SI تھانہ رتہ امرال 8/2/2021 از تھانہ حسب آمد درخواست بشکل استغاثہ رپورٹ ابتدائی اطلاعی ہذا جرم مذکورہ مرتب ہوئی۔ اصل استغاثہ مع نقل FIR بدست از نمہ کنسٹیبل عقب فرسندہ SI صاحب براد تفتیش ارسال ہے۔ محرر بعد تکمیل ریکارڈ دیگر نقل FIR جاہا بخدمت انصران مجاز ارسال کرے۔



**IN THE COURT OF SESSIONS JUDGE  
RAWALPINDI**

In the matter of:-  
Shaukat Ali son of Arif Ali R/o Hussain Colony, Sher Kot,  
Tehsil and District Kohat  
Petitioner

Versus

The State

Respondent

**PETITION U/S 498 CR.PC. FOR THE GRANT OF BAIL BEFORE  
ARREST.**

**IN**

**CASE FIR NO. 73 DATED 08-02-2021  
OFFENCE U/S 380, 411, 457 PPC P.S. RATTA AMRAL RAWALPINDI.**

Respectfully Sheweth:-

1. That earlier bail before arrest of the petitioner was dismissed due to non prosecution from the court of Tahir Abbas Sipra Learned ASJ, Rawalpindi vide order dated 28-04-2021.
2. That other bail before arrest of the co-accused namely Baswari Jan and Nadia Bibi has been granted by this Honourable Court vide order dated 27-07-2021 therefore, rule of consistency applies on present petitioner.
3. That the petitioner has falsely been involved in the above mentioned case although he is quite innocent. Copy of FIR is attached herewith.
4. That the petitioner seeks his bail before arrest on the following amongst other grounds: -

**GROUND**

- a. That the allegations leveled against the petitioner are totally false, frivolous baseless and concocted one.

**FILE**  
29 JUL 2021  
**AD & SJ**

**ATTESTED**  
25 SEP 2021  
STATE OFFICER  
District & Sessions Judge  
Rawalpindi

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b. That the petitioner could not appear before the Honourable Court on 28-05-2021 as the petitioner suffered COVID-19. Due to said reason, his first bail petition was dismissed due to non prosecution as mentioned earlier.

c. That no offence as alleged is made out against the petitioner and the case is one of further inquiry and probe.

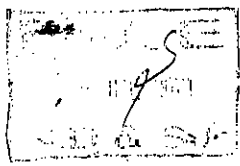
d. That the petitioner has been involved in the instant case with the malafide and ulterior motive on the part of complainant with the connivance of local police.

e. That the alleged offence does not fall within the prohibitory clause of section 497 Cr.PC.

f. That the petitioner belongs to very respectable family and is previously non-convict.

g. That the petitioner apprehends the imminent arrest at the hands of local police, if arrested he would be humiliated and would suffer an irreparable loss to his body mind and reputation etc.

h. That the petitioner is ready to join the police investigation as and when he required.



**ARRESTED**  
25 SEP 2021  
STAFF OFFICER A  
District & Sessions Judge  
Bharatnagar

Handwritten signature





That the petitioner is ready to furnish the solvent surety according to the satisfaction of this Honourable Court.

**PRAYER:-**

It is, therefore, respectfully prayed that the petitioner may kindly be admitted to bail before arrest till the final disposal of the case.

Ad-Interim bail is also prayed for.

*[Signature]*  
Petitioner

Through:-

*[Signature]*  
**Raja Arshad Hayat**  
Advocate High Court  
Rawalpindi

**Certificate:-**

As per instructions received from my client, this is first Pre arrest bail petition, being moved before this Honourable Court.

*[Signature]*  
Counsel

**ATTESTED**  
*[Signature]*  
23/01/2011  
JUDGE

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Accused/petitioner Shaukat Ali on ad-interim pre-arrest bail.  
Raja Arshad Hayat Advocate, counsel for the accused/petitioner.  
I.O with record.  
ADPP for the State.



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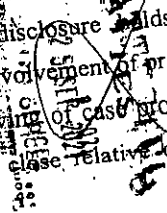
Through instant petition, accused/petitioner Shaukat Ali has sought his pre-arrest bail in case FIR No.73 dated 08.02.2021, offence U/S 157/380/411 PPC, registered at P.S Ratta Amral, Rawalpindi.

It has been argued by learned counsel for the accused/petitioner that accused/petitioner is innocent and has falsely been involved in this case on the basis of concocted story; that the accused/petitioner is not nominated in the FIR; that the case of accused/petitioner is one of further inquiry; that the alleged offence does not fall within the ambit of prohibitory clause of Section 497 Cr.P.C.; that co-accused have already been admitted to bail by learned Area Magistrate. It has been prayed that by accepting this bail petition, ad-interim pre-arrest bail already granted to the accused/petitioner may be confirmed.

On the other hand, learned ADPP on behalf of the State has vehemently opposed this bail petition and has prayed for its dismissal.

Arguments heard. Record perused.

The present case was registered against some unknown accused initially and then one of the accused Shahzad Ali was arrested. Upon the disclosure made by accused Shahzad Ali while in police custody, the present accused/petitioner Shoukat Ali as well as the accused Nadia and Baswari Jan were nominated vide Zimni No.20 dated 17.03.2021. The allegation against the present accused/petitioner is only to the extent that the accused Shahzad Ali handed over 660 grams gold i.e stolen property to him and the others for keeping the same in their custody. In this way, the offence attributed to accused/petitioner falls within the definition of offence U/S 411 PPC. As already mentioned the present accused/petitioner has been nominated on the basis of a disclosure by the co-accused but such disclosure holds no importance in the eyes of law. No detail regarding the involvement of present accused/petitioner or the time, date and place of receiving of cast property has been provided. The present accused/petitioner is close relative of the



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Shaukat Ali... The State

r accused who actively participated in the occurrence and his false  
ination cannot be ruled out. The main accused who nominated them has  
ady been granted bail. It is pertinent to mention here that two other co-  
used Mst.Nadia and Baswari Jan having the same role have also been  
nted pre-arrest bail vide order dated 27.07.2021 and the present  
cused/petitioner is also entitled for grant of bail under the rule of  
nsistency. In view of that instant bail petition is accepted and ad-interim  
e-arrest bail already granted to the accused/petitioner is confirmed subject  
his furnishing bail bonds in the sum of Rs.50,000/- with one surety in the  
ke amount to the satisfaction of learned trial Court within seven days of this  
rder. File be consigned to the record room after its due completion and  
compilation.

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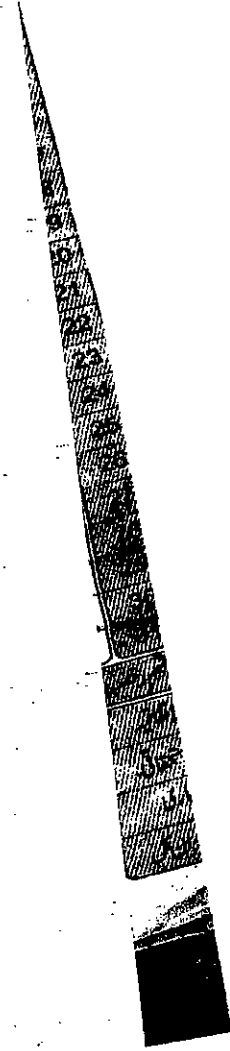
Announced  
24.09.2021



*Tahir Abbas Sipra*  
Tahir Abbas Sipra,  
Addl: Sessions Judge,  
Rawalpindi

ATTESTED  
25 SEP 2021  
STATE OFFICER  
RAWALPINDI

72155  
25/8/21  
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25/8/21  
Communicated to Applicant  
25/8/21



*[Handwritten signature]*



**OFFICE OF THE DISTRICT EDUCATION OFFICER**

DISTRICT ORAKZAI  
Phone No. 0925-690017  
No. .... Dated .....

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**SUSPENSION ORDER:**

In light of the GPO Rawalpindi FIR No. No. 73 accused under the law 457/380, dated 8/02/2021, the competent authority has been pleased to suspend Mr. Shoukat Ali PSHT at GPS Siter Ali Killi & Mst. Baswari Bibi PST at GGPS Sharo Dogala in Orakzai District with immediate effect till completion of the investigation/decision of the District Magistrate Rawalpindi.

DISTRICT EDUCATION OFFICER  
DISTRICT ORAKZAI

Encls. No. ? ..... Dated: .....

Copy for information to the:

1. Deputy Commissioner, Orakzai.
2. Deputy Director (Estab), Directorate of Education (Merged Areas), Peshawar w.r.t his letter No. 5471/E-6/KC/Orakzai, dated 12/04/2021.
3. City Police Officer, Rawalpindi w.r.t his letter No. 3623, dated 10/04/2021.
4. District Police Officer, Orakzai for necessary legal action.
5. District Monitoring Officer, Orakzai.
6. District Account Officer, Orakzai with the request to stop their salaries with immediate effect.
7. ASDEOs (MF), Lower Orakzai with the direction to do the needful regarding stoppage of their salaries till decision/clearance.

DISTRICT EDUCATION OFFICER  
DISTRICT ORAKZAI

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**OFFICE OF THE DISTRICT EDUCATION OFFICER  
DISTRICT ORAKZAI**

Phone No. 0925-690017

SUSPENSION PRDER

IN THE LIGHT OF THE GPO RAWALPINDI FIR NO 73 ACCUSED UNDER THE LAW 457/380 DATED 8/2/2021, THE COPETENT AUTHORITY HAS BEEN PLEASED TO SUSPEND MR, SHOUKAT ALI PSHT AT GPS KHAIR ALI KILI AND BASWARI BIBI PST AT GGPS SHARO DOGAL IN ORAKZAI DISTRICT WITH IMMEDIATE EFFECT TILL COMPLETION OF THE INVESTIGATION/DECISION OF THE DISTRICT MAGISTRATE RAWALPINDI.

DISTRICT EDUCATION OFFICE

DISTRICT ORAKZAI

ENDST NO.....DATED...../...../.....

COPY FOR INFORMATION TO THE.

1. DEPUTY COMMISSIONER ORAKZAI
2. DEPUTY DIRECTOR(ESTAB) DIRECTORATE OF EDUCATION( MERGEDAREAS), PESHAWAR. W.r.t this no. 5471/E-6/KC/Orakzai, dated 12/04/2021.
3. City Police Officer, Rawalpindi w.r.t his letter No. 3623, dated 10/04/2021.
4. District Police Officer, Orakzai for necessary legal action.
5. District Monitoring Officer, Orakzai.
6. District Account Officer, Orakzai with the request to stop their salaries with immediate effect.
7. ASDEOs (M/F), Lower Orakzai with the direction to do the needful regarding stoppage of their salaries till decision/clearance.



OFFICE OF THE DISTRICT EDUCATION OFFICER, DISTT:ORAKZAI.

(12) (2)

**LEAVE SANCTION ORDER.**

In exercise of power conferred upon the competent authority vide rules 5-(a) of the District Govt: Rules of Business 2001 read with NWFP Govt: revised leave rules 1981. Sanction to the grant of following leave are hereby accorded.

S.No.	Name of Officials & Desig:	Name of Office/ School	Nature of Leave	Period of Leave	Remarks
1	Mr.Shoukat Ali PSHT	GPS Darvezai	Leave without pay	Wef:13/3/2021 to 13/9/2021(185)	(185 Days without pay)

Note :- Necessary entry to this effect should be made in her/his service books.

(FARID ULLAH MEHSOOD)  
DISTT:EDUCATION OFFICER,  
DISTT: ORAKZAI.

Endst: No. 9186-92 /Dated Orakzai the 9/12 /2021.

Copy to the:-

1. District Accounts Officer, Distt: ORakzai.
2. DDEO (M) Distt: Orakzai.
3. ASDEO Circle Office.
4. DMO Distt: Orakzai.
5. Head Teacher concerned.
6. Official concerned.
7. Office copy

~~FARID ULLAH MEHSOOD~~  
DISTT:EDUCATION OFFICER,  
DISTT: ORAKZAI.