

BA No. 36/BA of 2019

Or 04  
02-01-2020

Present:

Syed Muzahir Hussain Advocate for accused/petitioners  
APP Syed Aamir Shah for State

The accused/petitioners (1) **Juma Khan** s/o Abdul Rehman and (2) **Fazal Janan** s/o Habib Rehman, residents of Tutamela, Orakzai are seeking **post-arrest bail** in case **FIR no. 34** dated **30-09-2019**, u/ss **302/311/201/34** of PPC in PS Lower Orakzai.

The facts of the case, according to record, are; that on 30-09-2019, the local SHO received information that the accused-petitioners had murdered one Ms. Hajra Bibi (w/o Juvenile co-accused M. Shanif) on the pretext of honour and buried her. The FIR was registered and investigation was initiated. During investigation statement of M. Shanif was recorded u/s 164 CrPC, who admitted the occurrence and named all involved (10 accused). Subsequently, the present accused-petitioners were also arrested and they made confession before Judicial Magistrate. Now they have filed the instant petition, mainly on the ground of consistency, as 06 co-accused have already been released on bail. The trial of the case has started before this court today.

Arguments of learned counsel for the accused-petitioners and APP for the State heard; and record perused. The tentative assessment of which, for the purpose of deciding instant petition, shows that:

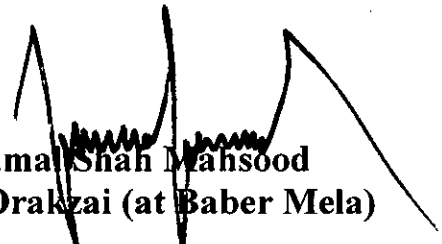
1. The accused-petitioners have been attributed the main role of committing the murder, by strangulation through hanging. The statement of co-accused M. Shanif and the judicial confessions made by the accused-petitioners are relevant in this respect.
2. The rule of consistency does not attract in favour of the present accused-petitioners as the other co-accused were

granted bail mainly on the ground that they had not played the active role in the murder.

3. The weapon of offence, rope, was recovered from the house of the accused party.
4. The offence falls under the prohibitory clause of section 497 Cr.P.C and is heinous in nature which has been committed on the pretext of honour.

In these circumstances, instant petition is **dismissed**.  
Let a copy of this order be placed on record; while this file be consigned to the Record Room after necessary completion and compilation.

**Announced**  
**02-01-2020**

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