

BA No. 96/BA of 2020

Or 08  
17-11-2020

Present:

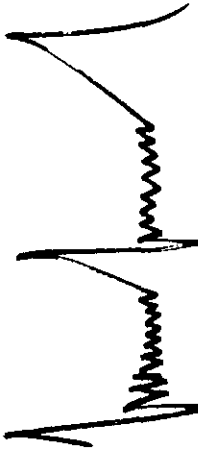
Hassan Khan Advocate for accused/petitioner  
APP Syed Aamir Shah for State  
Noor Shah, father of deceased Muhammad Zubair  
Mumtaz Gul, father of deceased Sadina Bibi

The accused/petitioner **Muhammad Rashid** s/o Muhammad Rahim; r/o caste Ali Khel, village Gori Chak, Upper Orakzai is seeking **post-arrest bail** in **case FIR no. 48** dated **27-09-2020**, u/ss. **302/311 PPC** in PS Upper Orakzai.

The facts of the case, according to record, are; that on 27-09-2020, the local SHO received information that the accused/petitioner had murdered one Muhammad Zubair s/o Noor Shah and Sadina Bibi (wife of accused/petitioner) on the pretext of honour, due to alleged illicit relationship between the two deceased; and that the dead bodies had been brought to the Civil Hospital, Mishti Mela. That the SHO went to the hospital where the dead bodies were present, and father of deceased Muhammad Zubair and an uncle of deceased Sadina were also present there; who verified the occurrence. Documents were prepared by SHO for medico-legal examination of dead bodies; and a murasila was sent to the PS for registration of case. The accused/petitioner was arrested on the day of occurrence. Hence the instant petition.

Arguments of learned counsel for accused/petitioner 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/petitioner has made judicial confession in the present case.
2. The weapon of offence, a 30-bore pistol, was also recovered at the instance of accused, during investigation.

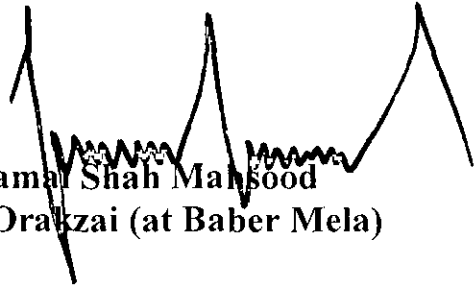
  
Additional District & Sessions Judge-1  
Orakzai

## Muhammad Rashid Vs State

3. 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. The circumstances of the case attract the concept of *fasad-fil-arz* and the post-mortem report also shows that the deceased lady was pregnant with a child at the time of murder.
4. Today fathers of both the deceased appeared before this court and produced affidavits, wherein they stated that the accused/petitioner is innocent and that they have got no objection on his release on bail and also on his acquittal. The affidavits are placed on file. However, these affidavits cannot be considered at this stage as the accused himself has made judicial confession during investigation. The father of deceased Sadina Bibi also seems to be mentally incapacitated, hence, his affidavit cannot be said to have been executed after understanding the consequences of same.

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

**Announced**  
**17-11-2020**

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