

Or 05  
05.07.2019

Present:

Naimat Ullah Advocate for accused/petitioner  
Complainant Noor Nabi along with Haseeb Ullah Khan Advocate, who submitted Wakalatnama which is placed on file  
APP Zohaib Ahmed Sher for the state.

The accused/petitioner **Moharam Ali** s/o Shams ur Rehman; r/o Shawa Mela, Karaiz, Orakzai; who is confined in jail, is seeking his **post-arrest bail** in case **FIR No. 13** dated 15-06-2019, wherein he has been charged u/s **302/34 PPC** of PS Lower Orakzai (Kalaya).

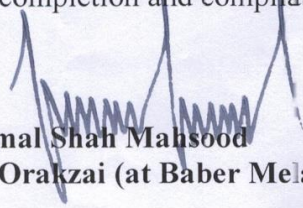
The allegation against the accused/petitioner, according to the FIR, is that on the day of occurrence while complainant Noor Nabi, eyewitness Taqweem Ali and deceased Naimat Ali were working in their fields through a tractor; the accused/petitioner and his father, co-accused Shams ur Rehman, arrived there armed with Kalashnikovs. That co-accused Shams ur Rehman ordered accused/petitioner to shoot; on which accused/petitioner started firing, which resulted in injuries to Naimat Ali. That the accused then ran away from the spot and that the injured succumbed to the injuries while being shifted to hospital. The motive was stated as dispute of land.

Arguments of learned counsels for the parties and APP for the State heard: the available record has been perused. Tentative assessment of which shows that:

1. The accused/petitioner has been directly charged by name in a FIR with an offence which falls under prohibitory clause of section 497 Cr.PC. There is no undue delay in registering of FIR, keeping in view the distance between the place of occurrence and PS.
2. The accused/petitioner has been given the effective role of firing.
3. Although, the accused/petitioner is juvenile according to the card of arrest and his age is mentioned as 17/18 years; however, keeping in view the provisions of section 497 CrPC and section 6 (4) of Juvenile Justice System Act 2018, he cannot claim bail as of right.
4. The other pieces of evidence corroborate the ocular account mentioned FIR and motive behind occurrence is also present.
5. At bail stage only, tentative assessment of record is permissible; the minute points raised by the counsel for accused/petitioner cannot be considered at this stage.

In these circumstances the accused/petitioner is prima facie connected with the offence which falls under prohibitory clause of section 497 Cr.PC. Hence this petition is **dismissed**. Copy of this order be placed on record. Record be returned to the quarter concerned while file of this Court be consigned to the record room after necessary completion and compilation.

**ANNOUNCED**  
**05-07-2019**

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