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**IN THE COURT OF ADDITIONAL SESSIONS JUDGE-II ORAKZAI, AT  
BABAR MELA**

BA No..... 26 of 2019

Rajab Ali..... Vs ..... State

**ORDER**  
**02.10.2019**

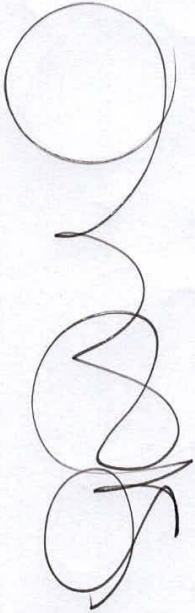
Learned counsel for the accused/petitioner present. Zohaib Ahmad Sher APP for the State present. Learned counsel for the complainant along with complainant party present.

Accused/petitioner Rajab Ali s/o Qamber Ali r/o Kuriz District Lower Orakzai is seeking his release on bail in case FIR No.28 dated 21/08/2019 U/Sec 302/324/34 PPC of PS Lower Orakzai (Kalaya).

Brief facts of the case are that the complainant Nejat Ali reported to the police that on 21/08/2019 he along with his brother Ishaq Ali and nephew Afsar Ali were proceeding to the nearby shop for purchase of house hold articles, that his brother Ishaq Ali was going ahead of them, that when they reached to the place of occurrence, there from the nearby mountains the accused/ petitioner along with his co-accused appeared in front of them and started firing on them as a result of which his brother Ishaq Ali got hit and died on the spot while he and his nephew escaped unhurt. The motive for the occurrence was disclosed by the complainant as blood feud enmity. The report of the complainant was reduced into writing in the shape of murasilla which was sent to the PS for the registration of the case on the basis of which the instant FIR was registered against the accused/petitioner and his co-accused.

Arguments of the learned counsel for the accused/petitioner and learned APP for the state assisted by learned counsel for the complainant heard and record perused.

The tentative assessment of record would evince that the accused/petitioner along with his co-accused is directly charged in the FIR with specific role of having caused fire armed injuries to the deceased who has received fire armed injuries on his person which fact was borne out from the post-mortem report of the deceased. The eye witnesses of the occurrence have implicated the accused in their statement and the motive for the occurrence has been disclosed in the FIR by the complainant. During spot inspection by the Investigation Officer, blood stained earth and eleven empties of 7.62 bore were recovered from the spot that confirmed the venue of occurrence as shown in the site plan. Furthermore, the eleven 7.62 mm bore crime empties were dispatched to the FSL Peshawar and the FSL report shows that the empties were fired from different 7.62 mm bore weapons. The fact and circumstances of the case prima facie connect the accused with the commission of murder of the deceased which disentitle the accused/petitioner to the grant of bail. The accused/petitioner is charged for a heinous offence of murder that falls within the prohibitory clause of section 497 Cr.P.C. So far as the plea of the accused for the grant of bail on medical ground is concerned, the District Health Officer examined the accused and reported that the accused is heart patient and has done angioplasty and also diabetes and



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ongoing heart and diabetes medication. The medical report submitted by the District Health Officer Orakzai at Hangu does not say that the treatment of the accused is not possible inside jail or continuous detention of accused in jail will aggravate his ailment or hazardous to his life and the accused needs some specialized treatment. Proper medication is available to the accused and no strong reasons exist to believe that the nature of disease is such which require a special treatment and care that is not possible in jail and further detention of accused in jail would endanger his life, hence the accused/petitioner is also not entitled to be released on bail on medical ground.

In view of the above facts the accused/petitioner is not entitled to be released on bail, therefore the instant bail application is rejected.

File of this Court be consigned to record room after its necessary completion and compilation.

**Announced**  
**02.10.2019**



**(SHAUKAT ALI)**  
Additional Sessions Judge-II,  
Orakzai at Babar Mela

**SHAUKAT ALI**  
**Addl: District & Sessions Judge-II,**  
**Orakzai at Hangu**