

Or 04
22-08-2020

Present:

Noor Mer Jan Advocate for accused/petitioner
Complainant, Fazal Hameed, along with Jabir Hussain
Advocate
APP Syed Amir Shah for the State

Through the instant bail petition accused/petitioner **Rafi Ullah** s/o Muhammadi Jan; r/o Saif Dara, Upper Orakzai; who is charged in case **FIR No. 57**, dated 13-06-2020, u/s **302 PPC** of **PS Lower Orakzai** is seeking **post arrest** bail.

Facts of the case, according to FIR, are that; the ASHO of PS Lower Orakzai on receiving information arrived in Mishti Mela Hospital on 12-06-2020; that complainant, Fazal Hameed, was present there along with the dead body of his son, Asif Rehman. The complainant reported to the ASHO that his deceased son had left his house on 10-06-2020 and not returned; that he was searching for his son when on that day the dead body of his son was found in a mountain area; that his son had been murdered through strangulation. That the body was brought to hospital with the help of villagers. The complainant stated that they had no enmity with anyone and that he will charge the culprit/s after verification and satisfaction. The dead body was referred for PM report and a murasila was sent to PS for registration of instant case.

On 24-07-2020, a supplementary statement of complainant was recorded, wherein he stated that after probe and due satisfaction he had come to know that his son was murdered by Rafi Ullah (present accused/petitioner). Later on, another

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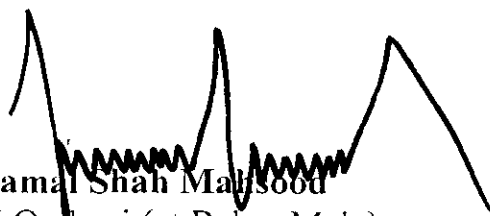
statement of complainant was recorded u/s 164 CrPC, wherein two other persons were also charged for the offence.

Arguments of counsels for the parties and APP for State heard, and available record perused; the tentative assessment of which, for the purpose of deciding instant petition, shows that:

1. Admittedly, there is no eyewitness of the occurrence and no one was charged by name in the FIR.
2. The present accused/petitioner was charged by the complainant in a belated statement recorded u/s 161 and 164 CrPC, after about 45 days of registration of case. No source of probe and due satisfaction has been mentioned by the complainant in his statement.
3. No incriminating material has been recovered against the accused/petitioner.
4. The accused/petitioner is a juvenile, according to card of arrest.
5. Allegedly, the accused/petitioner made confession before police, however, the same is not admissible in evidence at this stage.

In view of the above circumstance, the accused/ petitioner has made out a case of further inquiry into his guilt. Resultantly, the instant petition is **accepted** and it is directed that the accused/petitioner, **Rafi Ullah**, may be released on bail in the instant case, subject to furnishing bail bonds in the sum of **Rs 100,000 (one lac)**, with two sureties each in the like amount to the satisfaction of this court. Record of the police be sent back along with a copy of this order, while this file be consigned to Record Room after its necessary completion and compilation.

Announced
22-08-2020


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