

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

BA No. 120/4 of 2021 (On fresh ground)

Gul Rehman Vs State

Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order	05/11/2021	<p>Muhammad Kamran Khattak Advocate represented accused/petitioner; Mr. Nisar Ahmad APP for State are in attendance. This is the disposal of captioned post arrest Bail Application, submitted by accused/petitioner Gul Rehman, on fresh ground as his previous application for bail was rejected vide Order dated 24-09-2021 passed in BA No. 109/4 of 2021.</p> <p>2. Briefly stated facts of the case are such that Mr. Naimat Ali, SHO of Police Station Kurez Boya forwarded Murasila through head constable Ain Ali, stated therein that Gul Rehman son of Abdul Ais caste Qambar Khel Afridi (hereinafter called accused/petitioner) has committed murder of Khial Jameel son of Zareef Khan caste Afridi (hereinafter called deceased) at Koko Dara, District Orakzai. The motive behind the offence was alleged illicit relationship of deceased with Wasima Bibi, the wife of accused/petitioner. Consequently, FIR bearing No.18 dated 05-09-2021 was registered at Police Station, Kurez Boya against accused under Section(s) 302 and 311 of the Pakistan Panel Code, 1860. Accused was later on arrested and was remanded to Judicial Lockup that obliged him to file application for post arrest bail on various grounds including that of compromise. Such bail application registered as BA No.109 of 2021 was rejected by this Court vide Judgement/Order dated 24-09-2021; the reasons mentioned therein are reproduced herein below for ease of reference.</p> <p><i>“The tentative assessment of record reveals that it is daylight occurrence which has promptly been reported. Single accused has been charged for commission of heinous offence. The contents of FIR are apparently</i></p>

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supported by post mortem report and incriminating material recovered from the scene of crime. The compromise of the parties cannot be based as sole ground for grant of bail as the offence has allegedly been committed in the name and pretext of honor. Similarly, the compromise is also defective on account of non-payment of Diyyat to the minor legal heirs. Above all, the available record is also silent about the female (wife of accused/petitioner) that matters in the prevailing cultural background of the area. It is also worth mentioning that the offence with which accused is being charged for, falls within the ambit of prohibitory clause of Section 497 of the Code of Criminal Procedure, 1898 which is obviously termed crime heinous in nature”.

3. The record of case was returned back to the Police with the copy of the Order rejecting the bail petition. The Investigation Officer has produced the father of deceased before learned the Area Magistrate where he recorded statement under Section 164 of the Code of Criminal Procedure, 1898. The father of deceased had stated that he is not charging present accused and alleged that his son was murdered by some unknown person. This statement was made as fresh ground for re-agitating the plea of release on bail in instant bail application which is under consideration.

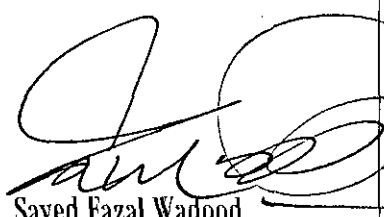
4. The contention of the father of deceased has already been considered by this Court in shape of affidavit annexed to that very previously presented application. What the father of deceased has stated in statement recorded before learned the Area Magistrate was available with the same magnitude in the affidavit of compromise; therefore, this cannot be termed as fresh ground.

5. For what has been discussed above, this Court holds the view that the ground mentioned in instant petition is not falling within the ambit of fresh ground and instant bail application is consequently rejected.

6. File of this Court be consigned to District Record

  
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<p>Order Continue...</p>	<p>05.11.2021</p>	<p>Room after its necessary completion and compilation with in the span allowed for.</p> <p>7. Announced in open Court.</p> <p> Sayed Fazal Wadood, AD&amp;SJ, Orakzai at Baber Mela</p>
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