

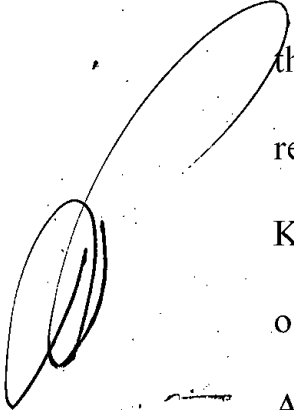
IN THE COURT OF HAQ NAWAZ,
SESSIONS JUDGE, ORAKZAI AT BABER
MELA

Bail Application No. : 235/4 of 2026
Date of Institution : 03.10.2026
Date of Decision : 09.10.2026

ORDER

Father of the accused/petitioner and Sr. PP, Abul Qasim for the state present. Arguments already heard and record perused.

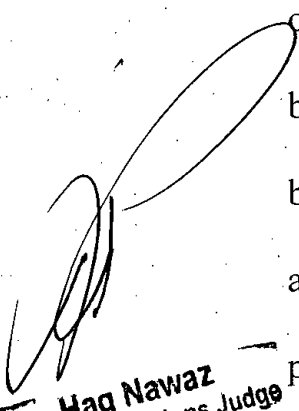
2. Accused/petitioner, **Muhammad Shaheen** s/o Khana Gul seeks his post-arrest bail in case FIR No. 43, Dated 29.08.2026, u/s 302 PPC of Police Station Kurez Boya. As per contents of the FIR, the local police, while responding to information regarding the incident, rushed to THQ Hospital Kalaya on 29.08.2026 and found the dead bodies of Muhammad Aslam and Muhammad Afzal Akbar in the emergency room. The complainant, Tilawat Khan, made a report to the local police at 1900 hours that he was present in his house when he received information that his relatives Muhammad Aslam and Muhammad Afzal were done to death by someone and their bodies were present on the spot. Upon this information, the complainant rushed to the spot and found their


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dead bodies smeared with blood. No one was charged in the FIR.

3. The learned counsel for the accused/petitioner submitted that the accused/petitioner was not charged in the FIR. He was nominated in the supplementary statement after more than 01-week of the occurrence. No recovery was affected from the accused/petitioner nor any pointation was made by him after his arrest in the case. He submitted that the case is one of further inquiry, therefore, the accused/petitioner be admitted to bail.

4. On the other hand, learned Sr. PP and counsel for the complainant submitted that there is no malafide on the part of complainant in belated nomination of the accused/petitioner otherwise he would have been charged soon after the occurrence. The brother of one of the deceased has nominated the accused/petitioner on the basis of information provided to him by his nephew. The offence falls within the prohibitory clause of Section 497 CrPC, in which two persons lost their precious lives. There is a strong motive of coal mine dispute between the parties. They relied upon 2017 PCr.LJ Note 47 and requested for rejection of the application.


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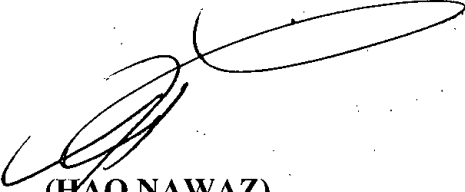
5. After hearing both the parties and perusal of the record, it was found that the authority relied upon by counsel for the complainant pertains to theft of gas by tempering with gas pipeline; hence, the facts of said case are distinguishable from the present case. The present occurrence was taken place on 29.08.2026 whereas the petitioner was nominated on 08.09.2026 by the brother of the deceased Muhammad Afzal namely Bakhtiar Akbar in his statement recorded u/s 161 CrPC on the basis of information provided by his nephew Muhammad Roshman. The said Muhammad Roshman is himself not an eyewitness of the occurrence nor did he identify the accused/petitioner when he saw him armed along with other accused soon after the occurrence while decamping in a motorcar as alleged by him. The accused/petitioner remained in police custody, but no recovery was affected from him nor he led the police party to the place of occurrence to made pointation. In a similar case, the Hon'ble Peshawar High Court, Peshawar has held in 2010 YLR 1488 that,

*"Record of the case had revealed that
incident was unseen occurrence and*

*no material evidence connected the
accused with the commission of
offence, except the statement of the
brother and driver of the deceased,
recorded u/s 164 CrPC at a belated
stage”.*

6. The complainant/brother of the other deceased Muhammad Aslam has not charged anyone for the commission of offence as yet. These circumstances of the case, makes it one of further inquiry. The application is, therefore, accepted and the accused/petitioner is admitted to bail subject to submission of bail bonds to the tune of Rs. 200,000/- each in the like amount to the satisfaction of this Court. The sureties must be local, reliable and men of means.
7. Copy of this Order be placed on police/judicial file. File of this Court be consigned to record room after its necessary completion and compilation.

Announced:
09.10.2026


(HAQ NAWAZ)
Sessions Judge, Orakzai
at Baber Mela