

4

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

BA No. 25/4 of 2023  
Abid Ullah 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	28/04/2023	<p>Syed Muzahir Hussain Advocate for accused/petitioner; Hamid Sarfraz being special prosecutor for ANF have already been heard.</p> <p>2. This is the disposal of Post arrest bail application presented by accused/petitioner Abid Ullah son of Zamin Jan, resident of Qaum Feroz Khel, District Orakzai.</p> <p>3. Facts of the case are such that, on 19-04-2022, Naib Subedar Adil Sher along with other Frontier Core Officials were busy in checking of the vehicles at Sheraz Garhi Bazar within the criminal jurisdiction of Police Station ANF Peshawar. Meanwhile, a person was moving towards Kalaya while having a plastic sack on his shoulder. On suspicion, he was stopped and searched. Upon search, the SHO found 28 packets of chars in the sack weighing 1250 grams of 27 packet and one packet of 1000 grams with total of 34750 grams of chars in the sack possessed by the accused/petitioner. Criminal Law was brought into motion against the accused and resultantly, FIR bearing No. 71 dated: 19/04/2022 was registered by attracting Section 9-D of the KP Control of Narcotics Substances Act, 2019 in Police Station ANF Peshawar. The accused was arrested on the spot and was later on remanded to Judicial Lockup. Consequently, application for release of the accused named above on bail was presented which was declined on merits.</p> <p>4. The matter was assailed before the Hon'ble Peshawar High Court Peshawar in CrM (BA) No. 1801-P/2022, which were disposed of vide Order dated 27-06-2022. The operating part of referred Order is reproduced herein below for ease of reference and comprehension.</p> <p><i>"After hearing arguments at some length, learned counsel</i></p>

Handwritten signature and official stamp of the court.


3

for the petitioner states that he would not press this bail petition at the moment, if direction is given to the learned Trial Court to conclude the trial within six (06) months. Having no objection on behalf of learned special prosecutor ANF, the learned Trial Court is directed to conclude the trial within six months after its putting in the Court by prosecution and if the trial is not concluded, the accused/petitioner may move fresh application for his release on bail which may be considered in accordance with law."

5. The case file has been put in Court on 23-09-2022 and is pending at the stage of prosecution evidence; wherein, two witnesses have been examined so far. On completion of such given period, the petitioner moved the Court with an application for release of accused on bail submitted on fresh grounds; which is, under consideration.

6. Learned counsel for accused/petitioner and learned special prosecutor for ANF were heard at length and file gone through.

7. This is tentative assessment of record available on file as deep appreciation of case file is neither required nor warranted at this stage. The accused/petitioner was allegedly carrying chars and was arrested on the spot. The huge quantity of 34750 grams of chars was allegedly recovered from the sack which was in direct possession of accused that has been supported with ocular evidence of the witnesses recorded on memorandum of recovery. The parcel separated for the purpose of examination through channel of Forensic Science Laboratory have promptly been sent. The huge quantity of chars apparently rules out the chance of false implication. The case of accused/petitioner is also falling within the ambit of prohibitory Clause of Section-497 of the Criminal Procedure Code, 1898. Arrest of accused/petitioner on the spot and recovery of huge quantity of chars connect the accused/petitioner with the commission of offence on its face and thus the Court is not inclined to extend him

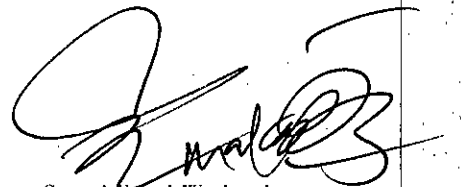
  
SAYED FAZAL WAJID  
District & Sessions Judge  
Orakzai

face and thus the Court is not inclined to extend him concession of bail.

8. As far as the fresh ground speaking of not concluding trial within six months of put in court of the case is concerned, the case file under trial is that of police station ANF Peshawar which was supposed to be tried at District Peshawar but was sent to District Orakzai on abolishing Special Court, ANF Peshawar. Witnesses on chart have reportedly been transferred to other Provinces being Federal subject which had further aggravated the issue. Secondly, the learned defense counsel representing accused is member of the District Bar Kohat and available in District Orakzai only on Thursday. The case has been fixed on every Thursday except on request of defense counsel; that too, not beyond the alternate Thursday. Thirdly, the special prosecutor ANF is dealing cases of ANF all over the south region right from Kohat to DI Khan and confirms his availability only on Thursday. Moreso, the Diary of this Court permits to fix the case on daily basis if learned counsel representing petitioner is ready and willing to conduct the case.

9. For what has been discussed above, instant bail petition stands dismissed. File of this Court be consigned to District Record Room after its necessary completion and compilation within the span allowed for; whereas, copy of this Order be placed on record.

10. Announced in open Court.



Sayed Fazal Wadood,  
AD&SJ/JSC, Orakzai at Baber Mela

