

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE-II/
ORAKZAI AT HANGU**

Sessions Case No:.....03 of 2019

Date of Institution.....29.11.2017

Date of present institution. 15.05.2019

Date of decision.....13.06.2019

State Vs Khial Haider

ORDER
13.06.2019

Accused Khial Haider on bail with his counsel Mr. Abid Ali Advocate present. Zuhaib Sher APP for the state present.

The accused Khial Haider s/o Sher Haider r/o Ali Khel District Orakzai, was handed over to Political Administration of Orakzai vide letter No. 3664/APA/L dated 22/11/2017 being suspect for informer/facilitator of TTP; a defunct organization involved in killing of security forces and civilians.

The accused had been arrested in the instant case in September 2016, from the IDPs Camp established by Orakzai Scouts for Ali Khel tribe and was handed over to the then Political Administration Orakzai. Since his arrest by the security forces of Orakzai Scouts, the accused remained behind the bar and was released on bail vide order date 24.04.2019 of Judge Anti-Terrorism Court Kohat Division. The instant case was transferred to Sessions Courts Orakzai by ATC Kohat Division vide order dated 11.05.2019 which was entrusted to this court for trial vide order dated 15.05.2019 of Hon'ble Sessions Judge Orakzai.

The record reflects that after the handing over the case of the accused along with the accused to the then Political Administration, the report of JIT was sought regarding the involvement of the accused in the alleged anti

state activities however neither the JIT investigated the allegations against the accused nor any report had been submitted, therefore, no incriminating material/evidence had been brought on record to support the allegations levelled against the accused. Besides that, with the consent of the accused the matter was also referred to the Jirga to probe into to the allegations however, the Jirga also failed to pass any verdict regarding the alleged involvement of accused in anti-state activities. Up till now no evidence whatsoever; documentary or oral has been collected to support the allegation against the accused despite the fact that the accused remained in custody for more than two years. No material has been brought on record to prove the guilt of the accused and the available record lacks the required evidence, as the trial against the accused could not be proceeded only on bald allegations.

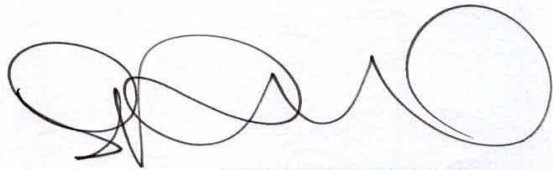
The matter in hand had not been properly reported nor the mode and manner of the alleged offence has been reduced into writing. The date, time and place of the alleged offence has not been specified nor any incident has been reported which has been resulted as a consequence of the alleged information or facilitation of the accused. There is nothing in the shape of cogent and tangible evidence on record to connect the accused with the commission of offence or to prove the case against the accused. The accused has not made any confession of the commission of alleged offence and there is no previous history of involvement of the accused in such like offences. It can be held that the case of the prosecution is of no evidence and there is no possibility to bring home guilt of accused on the available record. The standard of evidence required to prove the case against the

accused is lacking and the charge could not be frame against the accused. The prosecution also submitted for the discharge of the accused due to lack of evidence against the accused and submitted in its reply/application that the prosecution has no sufficient evidence against the accused to substantiate the charge against the accused. The prosecution submitted for the discharge of the accused u/sec 4 (c) (ii) of the prosecution Act 2005 read with section 494 Cr. P.C.

The upshot of the above discussion is that, there is no probability of the conviction of accused and proceeding with the trail of accused would be a futile exercise as the ultimate result would be the acquittal of accused. The prosecution is also not interested in the trail against the accused due to lack of sufficient evidence against the accused, therefore in the facts and circumstance of the case, no case stands against the accused, hence the accused is hereby discharge from the charges leveled against him in the instant case. The accused is on bail; his sureties are discharged from the liability of bail bonds.

File be consigned to District Record Room Hangu after its necessary completion and compilation.

Announced
13.06.2019



(SHAUKAT ALI)
Additional Sessions Judge-II/
Orakzai at Hangu