

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

BA No. 49 of 2020

Abdul Ghafoor Vs State

ORDER
05.09.2020

Mr. Haseeb Ullah Advocate, learned counsel for accused/petitioner present. Syed Amir Shah, learned APP for State present.

Accused/petitioner Abdul Ghafoor S/o Rodi Gul R/o Mamber Khel, Taba Konda Khel Tehsil Barha District Khyber is seeking his post arrest bail in case FIR No.98 dated 28.08.2020 u/s 15-AA/5 Explosive Substances Act PS Lower Orakzai District Orakzai.

Brief facts of the case are that the complainant Khurshid Anwar ASHO PS Lower Orakzai was on gasht and the SDPO circle Upper Kalaya had received information that ammunition and explosive shall be smuggled through motor car bearing registration No. R-5577 Peshawar and on that information of the direction of SDPO barricade was laid down and Girij Police Post, that after some time the said motor car arrived there and was stopped which was driven by accused/petitioner, that the accused/petitioner was over powered and on search of the motor car from the secret cavity in the switch board 624 live rounds of 303 Bore, 1076 live rounds of Dangar Bore total 1700 live rounds and 03 boxes of explosive were also recovered. The recovered articles along with motor car was taken into the possession and the accused/petitioner was arrested. The Murasila was drafted and sent to PS for registration of the case through constable Asif Khan, on the basis of which instant FIR was registered against the accused/petitioner.

Arguments of learned counsel for the accused/petitioner and learned APP for the State heard and available record perused.

The tentative assessment of record would transpire that the accused/petitioner was arrested red handed and a huge quantity of

SHAIKAT ALI
Addl: District & Sessions Judge-II
Orakzai at Mamber

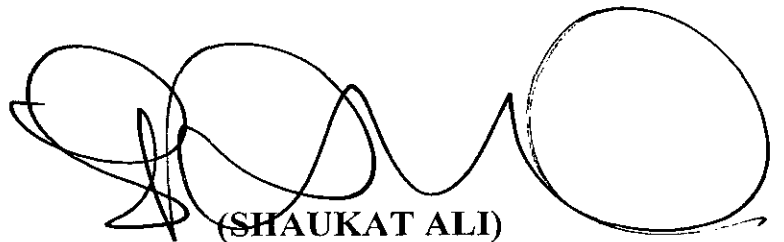
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ammunition and explosive was recovered from the motor car in the immediate possession of the accused/petitioner. The accused/petitioner is the resident of District Khyber who could not put forward any plausible explanation regarding his presence at the place of occurrence/District Orakzai and about the recovery of ammunition and explosive from the vehicle driven by him. The motor car is also taken into possession by the police which was verified from Excise and Taxation office Peshawar and the report of the ETO Office Peshawar shows that no record of the vehicle was found in their office which facts prima facie connect the accused/petitioner with the smuggling of incriminating articles recovered from the vehicle. The recovery is supported by the witnesses to the recovery memo available on file. No ill-will was surfaced on record on the part of the complainant and prosecution witnesses to falsely implicate the accused/petitioner in the instant case for the commission of offence. Furthermore, sentence for a term which may extend to 14 years has been provided u/s 5 of the Explosive Substances Act 1908 which does fall within the prohibitory clause of 497 Cr.P.C. Reasonable grounds exist to believe that the accused/petitioner is involved in the commission of offence, therefore this Court is not inclined to release the accused/petitioner on bail.

In view of above, instant bail petition, being devoid of merits, stands dismissed.

File of this Court be consigned to record room after its necessary completion and compilation.

Announced
05.09.2020



(SHAUKAT ALI)
Additional Sessions Judge-II,
Orakzai at Babar Mela