

Or 03
13-04-2020

Case file of BA received from the court of Learned ASJ-II, Orakzai who was previously performing duty as Judge on duty. Today the undersigned is performing duty as Judge on duty. Let the petition be registered.

Present:

Haseeb Ullah Khan Advocate for the accused/petitioner
APP Syed Aamir Shah for State
Record received

This order shall dispose of **Post-arrest Bail Application** filed on behalf of accused/petitioner **Atif Ali** s/o Rasheed Ali; r/o Bar Muhammad Khel caste, village Chapri, Lower Orakzai; who is confined in jail in case **FIR No. 23** dated 01-04-2020, u/s **9 (d) CNSA** of PS Lower Orakzai.

Facts of the case, according to the FIR, are; that complainant ASHO Khursheed Anwar was present at Meer Mela Check-Post with other police officials when a motor car - bearing no. BB 9804/Peshawar, was stopped for checking; that two young persons were sitting in the back seat, having in their laps plastic bags; that these two persons were found suspicious and deboarded for checking; that one of them, namely Atif Ali (present accused/petitioner), was carrying 03 packets of chars weighing 1000 grams each (total 3000 grams) in the plastic bag, while the other, namely Nawaz Ali (co-accused), was carrying 02 packets of chars weighing 1000 grams each (total 2000 grams). That a 10-gram sample was separated from each packet for FSL analysis and that all the recovered substance was sealed into different parcels. Both the persons were arrested. Hence, the instant petition.

Arguments heard and record perused, tentative assessment of which shows that:


Additional District & Sessions Judge-I
Orakzai

BA No. 44/BA of 2020

1. The accused petitioner and the other co-accused were stated to be transporting narcotics in a motorcar, bearing no BB-9804; however, neither the motorcar has been taken into custody by the police nor the identification or statement of driver is available on record.
2. The accused petitioner is 18 years old, according to the card of arrest, and there is nothing on record to show that he has previously remained involved in any criminal case.
3. There is nothing on record to show that the samples of case property have so far been deposited in FSL, Peshawar or placed in safe and proper custody.
4. The other co-accused has already released on bail; hence, the rule of consistency also lies in favour the accused/petitioner.

In these circumstances the accused/petitioner has made out a case of further inquiry into his guilt for the purpose of grant of bail. Accordingly, instant petition is **allowed** and accused/petitioner Atif Ali is directed to be released on post arrest bail, subject to furnishing of bail bonds in the sum of **Rs. 100,000** with two sureties, each in the like amount, to the satisfaction of this court. Let a copy of this order be placed on record of the case and the same be returned to the quarter concerned. Let this file is to be consigned to record room after necessary completion and compilation.

Announced
13-04-2020


JAMAL SHAH MAHSOOD
 ASJ-I, Orakzai