

ORDER-05
03-04-2019

Present:

Abid Ali Orakzai Advocate for the accused/petitioner
APP Amir Shah for State

The accused/petitioner **Zia ul Haq** s/o Noor Saleem, r/o Aakakhel, District Khyber - who was confined in jail in narcotics case, u/s 9 (c) CNSA, by erstwhile Political Administration of Orakzai Agency, is seeking post arrest bail through the instant bail petition.

The allegation against the accused/petitioner, as revealed from the record of the case are; that he is a 'Hash Carrier' and that, on 09-10-2017, he was apprehended by 232 Wing of Orakzai Scouts at Chamanjana Check post, with 71 packets of Charas; weighing 90.05 kg (according to alleged confession of accused/petitioner made before an incharge of FC unit in presence of a Subedar and a Naik).

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

1. The accused/petitioner was subsequently handed over to the Political Administration without the case property (alleged narcotics).
2. There is nothing on record to show proper and safe custody of the allegedly recovered narcotics. No FSL report is available on record; neither any document is available to show that any samples have so far been sent or deposited in the FSL.
3. No name or statement of the seizing officer or any witness is available on record.

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Orakzai at Hangu

4. The alleged confession made by accused/petitioner is prima facie not admissible in law. (4)

In these circumstances the accused/petitioner has made out a case of further inquiry into his guilt for the purpose of grant of bail. Resultantly, instant petition is **allowed** and accused/petitioner Zia ul Haq is directed to be released on **post arrest bail**, subject to furnishing of bail bonds in the sum of **Rs. 100,000**, from two local and reliable sureties - each in the like amount, to the satisfaction this court. Let a copy of this order be placed on record. Let this file is to be consigned to Record Room of District Courts Hangu after its compilation.

Announced
03-04-2019

JAMAL SHAH MAHSOOD
ASJ-I/Judge Special Court, Orakzai (at Hangu)

JAMAL SHAH MAHSUD
Add: District & Sessions Judge-I,
Orakzai at Hangu