



Or 02
06-08-2019

Present:

Sana Ullah Khan Advocate for the accused/petitioners
APP Zohaib Ahmad Sher for State
Record received

This order shall dispose of bail application filed on behalf of accused/petitioners (1) **Hameed Ullah** s/o Istra Khan and (2) **Syed Umar** s/o Yar Muhammad; both residents of Stori Khel, Mala Khel Khwa Dara, Lower Orakzai; who are confined in jail in case **FIR No. 22** dated 01-08-2019, u/s **9 (c) CNSA** of PS Lower Orakzai.

Facts of the case, according the FIR, are; that secret information was received by SHO Mujahid Khan to the effect that some people would transport narcotics from Khyber area towards Syed Khalil Baba (in Orakzai). That on this information the SHO, along with SDPO and other police officials, laid a *naka* at Syed Khalil Baba Police Post. That one motorcycle bearing number MIK 2675, with 03 persons, was stopped for checking. That all 03 had hidden 02 packets of Charas each, beneath their clothes. That each packet weighed 01 Kg. That samples were separated from each packet for FSL analysis and the remaining was sealed in separate parcel; that in all 07 parcels were prepared. That the accused/petitioners were two of the 03 accused. Hence the instant petition.

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

1. No FSL report is available on record to establish that the allegedly recovered substance was in fact narcotics. There is nothing on record to show that the allegedly recovered narcotics was produced before Special Court/JM immediately after alleged recovery. No other document is available on record to show that the recovered substance was kept in safe and proper custody.
2. Two parcels each were allegedly recovered from 03 accused, however, no distinction has been made as to which number of parcel was recovered from which of the accused.
3. There is nothing record to show that the accused/petitioners have previously remained involved in any such case.

In these circumstances the accused/petitioners have made out a case of further inquiry into their guilt for the purpose of grant of bail. Accordingly, instant petition is **allowed** and accused/petitioners are 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 its compilation.

Announced
06-08-2019


JAMAL SHAH MAHSOOD
ASJ-I, Orakzai