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

BA No. 44 of 2020

Nasar Ullah Vs State

BA No. 45 of 2020

Munawar Khan Vs State

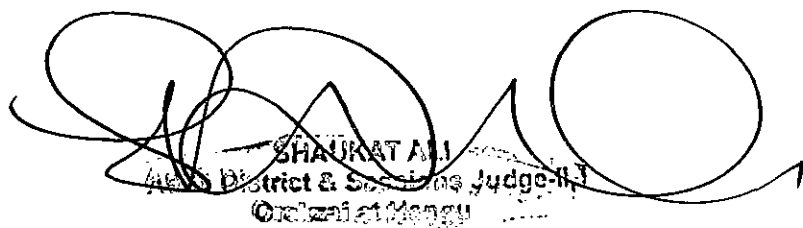
ORDER

29.07.2020

Mr. Sardar Ali Khan Advocate and Mr. Sanna Ullah Khan Advocate learned counsels for accused/petitioners present. Syed Amir Shah, learned APP for State present.

This single order is intended to disposed of two post-arrest bail applications titled above submitted by accused/petitioners Nasar Ullah Khan s/o Khayal Khan R/O Qom Feroz Khel, Tappa Jail Khel District Orakzai and Munawar Khan s/o Shatoth r/o Qamber Khel Shahan Khel Ajab Kalay Bara District Khyber seeking their release on bail in the same case FIR No. 86 dated 23/07/2020 u/s 9-D CNSA of PS Lower Orakzai.

Brief facts of the case are that the complainant along with police party were on gasht of the locality where the complainant received information about the smuggling of narcotics in a Motor Car bearing registration No. 4827 Lahore from Anjari to Bara District Khyber and on that information complainant along with other police constables laid barricade on the main road leading from Kalaya to Bara, that in the meanwhile the said Motor Car was coming which was signaled to stop and the driver stopped the Motor Car, that a young person was also seated in the front seat along with the driver and both were deboarded from the Motor Car, that the driver disclosed his name Nasar Ullah Khan s/o Khayal Khan and the other person disclosed his name Munawar Khan s/o Shahtoth, that the Motor Car was searched and from the boot (Diggi) of

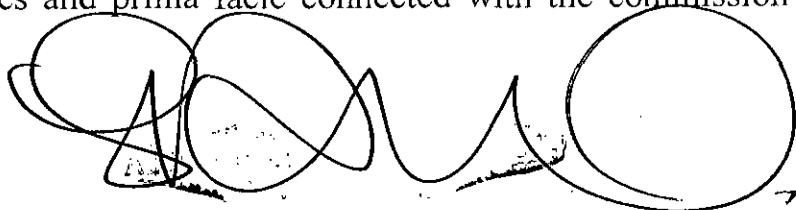

SHAUKAT ALI
District & Sessions Judge-II
Orakzai at Mangu

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the Motor Car one plastic sack white color was recovered containing 14 packets chars and on weightment each packet was 900/900 gram total 12600 grams chars, that the sack was separately weight which was 112 grams. 10/10 grams was separated from each packet for the purpose of FSL analysis and sealed in parcels No.1 to 14 while rest of the chars and sack was sealed into separate parcels. Motor Car, chars and plastic sack was taken into possession and the accused were arrested. Murasila was drafted and sent to PS for registration of the case, on the basis of which instant FIR was registered against the accused/petitioners, hence the present post-arrest bail applications.

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

The tentative assessment of record would transpire that the accused/petitioners were arrested red handed and a huge quantity of chars weighing 12600 grams was recovered from the Motor vehicle which was driven by accused Nasar Ullah Khan whereas accused Manawar Khan was on the front seat. Accused/petitioners Nasar Ullah being driver is the incharge of the vehicle, therefore knowledge and awareness of the contraband in the vehicle would be attributed to him. The contraband laying in the vehicle was in his control and possession being incharge of the vehicle therefore prima facie he is responsible for the transportation of contraband. So far as accused/petitioner Munawar Khan is concern he was setting on the front seat of the vehicle but nothing is available on file to show that whether the motor car was a taxi and the accused Munawar Khan was setting in it as a passenger. In the absence of such plea at this stage it would be presumed that both the accused/petitioners were colleagues and prima facie connected with the commission of offence.



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Furthermore, the recovery of contraband from the vehicle wherein the accused/petitioners were present and their arrest on the spot is supported by the witnesses to the recovery proceedings. No ill-will was pointed out on the part of the complainant and prosecution witnesses to falsely implicate the accused/petitioners and to plant huge quantity of chars against them in the instant case. Furthermore, the case of the accused/petitioners does fall within the prohibitory clause of 497 Cr.P.C, therefore this court is not inclined to release the accused/petitioners on bail.

In view of above, both the bail petitions, being devoid of merits, stand dismissed.

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

Announced
29.07.2020


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