

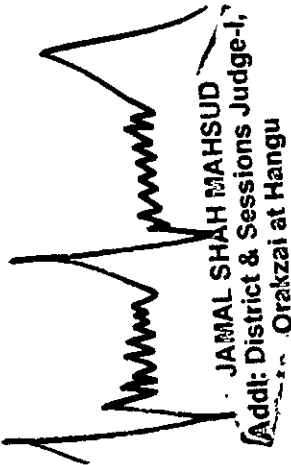
Or 02  
22-08-2020

**Present:**

Sana 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 **Nasrullah** s/o Yaqoob Khan; caste Shalobar Khel, Seena Khel, District Khyber; who is confined in jail in case **FIR No. 33** dated 18-08-2020, u/s **9 (d)** KP CNSA of PS Upper Orakzai.

Facts of the case, according the FIR, are; that complainant SHO, along with constables, was on routine patrol of the area when he received spy information about transport of narcotics on motorcycle; the police party laid a *naka* and stopped a motorcycle on which accused/petitioner was riding; on checking one packet of chars weighing 1050 grams was found hidden under the side cover. The accused was arrested and the

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


recovered substance and motorcycle were taken into possession by police. Hence, the instant petition.

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

1. The quantity of allegedly recovered substance lies on border-line of section 9(c) and 9 (d) KP-CNSA. It shall be determined during trial whether the quantity of recovered substance in fact attracts section 9(d) KP-CNSA. Therefore, it is not certain at this stage that the case falls under prohibitory clause of section 497 CrPC.
2. There is nothing on record to show that the samples of case property have so far been sent to FSL, Peshawar or even placed in safe and proper custody.
3. Nothing has been brought on record to establish the ownership of motorcycle (3563/Peshawar) involved in the case.
4. There is nothing on record that accused/petitioner has previously remained involved in any criminal case.

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 Nasrullah 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**  
**22-08-2020**



**JAMAL SHAH MAHSOOD**  
ASJ-I, Orakzai