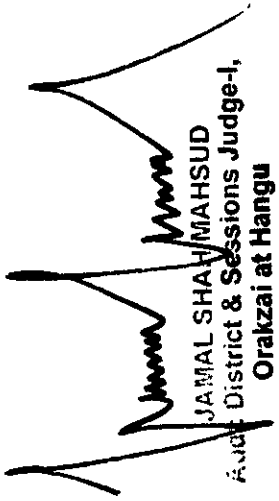


Present:

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 **Zarma Jan** s/o Usman Jan; r/o Sra Shaga, Anai Bazar, Zakha Khel, Landi Kotal, District Khyber; who is confined in jail in case **FIR No. 34** dated 18-08-2020, u/s **9 (d) KP-CNSA** of PS Upper Orakzai (Ghiljo).

Facts of the case, according the FIR, are; the complainant, Sub Inspector, along with constables, was present on a check post when he received spy information regarding an attempt to transport of charas on a motorcycle; that the police party started checking and a motorcycle with 02 riders was stopped; that the present accused/petitioner was riding on the pillion and that he was holding a bag in his lap, which on checking was found to contain 4000 grams charas. That a sample was separated from recovered substance for FSL analysis, and sealed into parcels; that both the persons were arrested, and the recovered substance


JAMAL SHAH/MAHSUD
Addl District & Sessions Judge-
Orakzai at Hangu

(3)


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

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

1. Although the charas was allegedly recovered from the direct possession of the accused/petitioner, however, there is nothing on record to establish any relationship of present accused/petitioner with the other co-accused or the motorcycle involved (1413/Peshawar).
2. The case was registered on 18-08-2020, but there is nothing on record to show that the sample of case property has so far been sent to FSL, Peshawar or even that the case property has been placed in safe and proper custody.
3. There is nothing on record to establish that accused/petitioner has previously remained involved in any criminal case.
4. The complainant and alleged witnesses of recovery all belong the same police station; no independent witness was associated with recovery proceedings despite prior information.
5. There are no chances of accused/petitioner tempering with prosecution evidence collected in the 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 **Zarma Jan** is directed to be released on post arrest bail, subject to furnishing of bail bonds in the sum of **Rs. 100,000** (one lac) 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
27-08-2020


JAMAL SHAH MAHSOOD
ASI-I, Orakzai