

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

Special Case No. 04 of 2021
Date of Institution: 14-01-2021
Date of Decision: 18-01-2021

State through Anwar Khan Si PP Mandra Khel PS Lower Orakzai
.....(*Complainant*)

VERSUS

Sajid Khan s/o Akbar Khan r/o Qoam Qamber Khel, Manza Khai District Orakzai
.....(*Accused/Petitioner Facing Trial*)

Represented by:

Mr. Amir Shah, APP for State

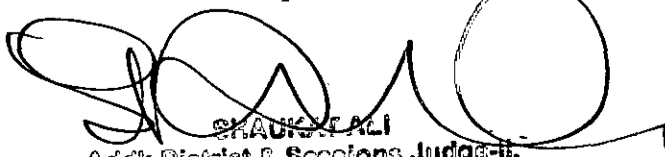
Case FIR No. 119 Dated 21-11-2020 u/s 9(d) CNSA PS Lower Orakzai

ORDER

18.01.2021

This order is intended to disposed of application for the discharge of the accused u/s 4 (C) (ii) of the Prosecution Act 2005 read with section 494 Cr.PC submitted by the District Public Prosecutor Orakzai for discharge of accused named above in case FIR No. 119 Dated 21-11-2020 u/s 9(d) CNSA PS Lower Orakzai.

The prosecution story is that the complainant received information that Sajid s/o Akbar Khan who is notorious drug paddler shall smuggle narcotics from Stori Khel and on that information the complainant along with other police official put barricades at kacha rasta near Mandra Khel check post, that after some time a person was coming having a plastic shopping bag in his hand when called by the police on seeing the police party decamped and threw the plastic shopping bag and disappeared in the nearby forest mountains, that the accused was search but could be found, that the plastic shopping bag was searched from which 05 packet chars each 1100/1100 grams was


SHAUKH ALI
Addl: District & Sessions Judge-II,
Orakzai at Hangu

recovered out of which 10/10 grams was separated from each packet for the purpose of FSL analysis and sealed in parcels No.1 to 5 while rest of the chars along with plastic envelope was separately sealed. Murasila was drafted and sent to PS through constable Taj Gul HC for registration of the case, on the basis of which FIR was registered against the accused/petitioner.

The case was investigated and after completion of investigation, the IO submitted the case file to the SHO for submission of complete challan who submitted complete challan against the accused for trial. On 14.01.2021, complete challan along with application for the discharge of the accused u/s 4 (C) (ii) of the Prosecution Act 2005 read with section 494 Cr.PC was received by this Court. The accused was summoned and the application was fixed for arguments.

Arguments of the learned APP for the state heard on the said application and record perused.

The perusal of record would reflect that the accused charged in the instant case was not arrested on the spot by the complainant. The complainant had information about the accused regarding the smuggling of narcotics however there is no incriminating material on record that the person fleeing at the time of occurrence from the police was in fact the accused charged in the instant case. The recovery has not been effected from the personal possession of the accused nor there is any previous record of the involvement of accused in such like cases. The accused is charged for throwing plastic shopper on seeing the police party however no independent witness has been examined


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that the shopper was thrown by the accused or the accused is indulge in such like activities. The available record and evidence do not connect the accused with the commission of offence and there is no possibility that the accused may be convicted in the instant case therefore the request of the prosecution for the discharge of the accused is genuine and the application is based on valid reasons.

In view of the above discussion the application submitted by the prosecution for the discharge of accused is accepted and the accused Sajid S/o Akbar Khan is discharged in the instant case from the charges levelled against him. The accused is on bail, his sureties are discharged from the liability of bail bonds.

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

Announced
18.01.2021



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