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BA No. 61/4
UMAR HAYAT VS STATE
FIR No. 88, Dated 29.08.2023, u/s 9 (d) CNSA, PS Kalaya

IN THE COURT OF SHAUKAT AHMAD KHAN
SESSIONS JUDGE/JUDGE SPECIAL COURT, ORAKZAI
AT BABER MELA

Bail Application No. : 61/4 of 2023
Date of Institution : 01.09.2023
Date of Decision : 06.09.2023

UMAR HAYAT VS THE STATE

ORDER

DPP, Umar Niaz for the State and Sana Ullah Khan Advocate for accused/petitioner present. Arguments heard and record gone through.

2. Accused/petitioner, **Umar Hayat** s/o Said Wali Khan seeks his post-arrest bail in case FIR No. 88, dated 29.08.2023 registered u/s 9 (d) of the Khyber Pakhtunkhwa CNSA, 2019 at Police Station Kalaya, wherein, as per contents of FIR, the local police on 29.08.2023 at about 1805 hours acting on information regarding presence of few persons having bags full of narcotics, to be smuggled to Bara District Khyber, reached the spot where 05 persons having bags in their possession, on seeing the police party, abandoning the bags tried to escape but the local police overpowered one of them who was holding a white colour plastic bag in his right hand while the other made their escape good from the spot. The search of the bag led the complainant to the recovery of 09 packets of chars wrapped with yellow colour scotch tape, each weighing 1000 grams, making a total of 9000 grams. The search of rest of the bags also led the complainant to the recovery of narcotics which were disclosed by the

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District & Sessions Judge,
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accused/petitioner, to be the ownership of the co-accused. Hence, the present FIR.

3. It is evident from the record that though as per card of arrest, the accused/petitioner is of the age of 14 years; therefore, a child within the meaning of section 2(b) of the Juvenile Justice System Act, 2018, but being accused of the commission of heinous offence as defined u/s 2(g) of the ibid Act and his case being covered u/s 6(4) of the ibid Act, cannot alone seeks his release on bail on the basis of being a child. As the accused/petitioner is directly nominated in the FIR, huge quantity of chars has allegedly been recovered from his possession and sufficient material is available on file to connect the accused/petitioner with the commission of offence; therefore, there are reasonable grounds to believe the accused/petitioner is involved in commission of heinous offence. Hence, the accused/petitioner is not entitled for the concession of bail at this stage. Accordingly, for the stated reasons, bail petition in hand stands dismissed being meritless.

Consign.

Pronounced:
06.09.2023




SHAUKAT AHMAD KHAN
Sessions Judge/ Judge Special Court,
Orakzai at Baber Mela