

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

BA No. 78/4 of 2021
 Lalgah Khan Vs State


Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order	21/06/2021	<p>Mr. Adnan Javid Afridi Advocate for accused/petitioner; Mr. Amir Shah APP for State are in attendance.</p> <p>2. This is the disposal of Post arrest bail application presented by accused/petitioner Lalgah Khan s/o Ali Sardar r/o Utman Khel Tappa Buzdan Khel Speen Dara, District Orakzai; charged in FIR No. 56 dated: 02/05/2021 registered under Section 5 of the Khyber Pakhtunkhwa Control of Narcotics Substance Act, 2019.</p> <p>3. Mr. Taj Muhammad Khan Sub Inspector of Police Station Kalaya, Orakzai on getting spy information moved towards the property of the accused located at Speen Dara Orakzai and found gathering of Opium Poppy. Criminal Law was brought into motion against the accused and resultantly, FIR bearing No. 56 dated: 02/05/2021 was registered against the accused by attracting Section 5 of the KP Control of Narcotics Substances Act, 2019 in Police Station Kalaya of District Orakzai. The accused was arrested on spot who was later on remanded to Judicial Lockup. Consequently, application for release of accused on bail is presented which is under consideration.</p> <p>4. Learned counsel for accused/petitioner and learned Assistant Public Prosecutor for state were heard at length and file gone through.</p> <p>5. This is tentative assessment of record available on file and deep appreciation is neither necessary nor warranted. The accused/petitioner was charged for cultivation of Opium Poppy in landed property owned by him but it has nowhere been established that the property is his ownership. The statement of the Local Mashar/Malak</p>


SAYED FAZAL WALOOD
 Addl. District & Sessions Judge
 Orakzai at Hangu

etc. for establishing ownership on face of it was required on part of the investigation which has not been done. The Opium Poppy allegedly recovered has been sent to FSL for forensic examination but the report is still awaited. No independent witnesses have been associated with the process. Similarly, no criminal history of the accused is available on file. The offence with which the accused has been charged is out of the ambit of prohibitory clause of 497 Criminal Procedure Code, 1898 as well. All these facts drag the case of accused/petitioner as matter of further inquiry.

6. For what has been discussed above, instant bail petition stands allowed subject to furnishing of bail bonds in the sum of Rupees 70,000; with two sureties, each in the like amount; to the satisfaction of this Court. File of this Court be consigned to District Record Room after its necessary completion and compilation within the span allowed for; whereas, copy of this Order be placed on record of Police to be returned accordingly.

7. Announced in open Court.


SAYED FAZAL WADOOD
Additional Sessions Judge/JSC
Orakzai at Baber Mela