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

Bail Application No. : 76/4 of 2023
Date of Institution : 02.11.2023
Date of Decision : 06.11.2023

MOBEEN KHAN ETC. VS THE STATE

ORDER

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

2. Accused/petitioners, **Mobeen Khan** and **Jamshid Afridi** both s/o Sharab Din seek their post-arrest bail in case FIR No. 88, dated 29.08.2023 registered U/S 9 (d) of the Khyber Pakhtunkhwa CNSA 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 containing 09 packets of chars each weighing 1000 grams making a total of 9000 grams of chars while the other made their escape good from the spot. The search of rest of the bags led the complainant to the recovery of 20 packets of chars per bag, each weighing 1000 grams, making a total of 20,000 grams per bag which were told by the accused in custody as each bag


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belonging to each of the absconding accused including the present accused/petitioners. Hence, the present FIR.

3. It is evident from the record that though the accused/petitioners are directly nominated in the FIR and the offence for which the accused/petitioners are charged, falls within the prohibitory clause of section 497 CrPC but the accused/petitioners were not arrested on the spot and the recovery of chars has not been made from immediate possession of the accused/petitioners. Moreover, the sole evidence against the accused/petitioners, is the statement of co-accused Umar Hayat, the authenticity of which is yet to be determined during trial.

4. Hence, in view of what is discussed above, bail petition in hand stands accepted and the accused/petitioners are admitted to the concession of bail provided each of the accused/petitioner submits a bail bond in the sum of Rs. 100,000/- with two sureties each, each in the like amount to the satisfaction of this court. The sureties must be local, reliable and men of means.

5. Police record be returned and file of this court be consigned to record room.

Pronounced:
06.11.2023


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

