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

BA No. 107/4 of 2021
State vs Irfan Ullah

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	08/09/2021	<p>Mr. Khurshid Alam 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 Irfan Ullah son of Nazeer Badshah resident of Mishti Mela, District Orakzai.</p> <p>3. Mr. Imtiaz Khan SI of Police Station Daboori, Orakzai was reportedly on patrolling of the area along with other constables. Accused was noticed with shopping bags in his right hand and was searched on suspicion. 03 packets measuring 1000 grams each with total of 3000 grams of chars were found in possession of such person who was arrested on the spot. Criminal Law was brought into motion against the accused and resultantly, FIR bearing No. 09 dated: 10/08/2021 was registered against the accused by attracting Section 9-D of the KP Control of Narcotics Substances Act, 2019, in Police Station Daboori of District Orakzai. The accused being arrested on spot was later on remanded to Judicial Lockup. Consequently, application for release of accused named above 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 as deep appreciation of case file is neither required nor warranted at this stage. Accused has presented instant application for grant of post arrest bail on the sole ground of ailment. The documents pertaining to illness of the accused as well as the petitioner have been referred to Medical Board particularly constituted for examination of such accused. The 03 members Medical Board consisting upon General Surgeon, Medical Specialist and Deputy Medical Superintendent has opined in a report with the name of Assessment Of Medical Board DHQ Hospital Mishti Mela Orakzai dated: 02-09-2021 in following terms; "However one of the piece of documents enclosed in an envelope provided to the team stating. "Medical prescription/documents in respect of Mr. Irfan Ullah s/o Nazir Badshah" shows that the patient named Irfan Ullah Lab No 1287/2020 Dated: 19th December, 2020 done by</p>

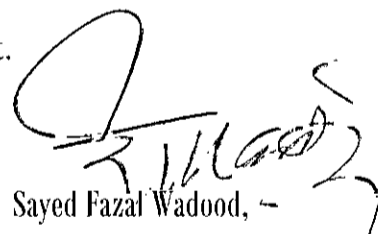

SAYED FAZAL WADOOD
Addl: District & Sessions Judge
Orakzai at Hangu

central pathology Laboratories (Reg No.507-N) suffers from early stage of transitional cell carcinoma of bladder. In light of this Medical Board understands that as this is a serious decease and can be fatal if left untreated. Hence an urgent assessment of the patient by Specialist Doctor of this disease is mandatory along with advanced investigations and an assessment by multidisciplinary team. In light of this the medical board advises that the patient may be referred urgently to specialist center dealing such type of disease (Institute of kidney Disease IKD Hayatabad Medical Complex Peshawar)."

6. Correct criteria for grant of bail to an accused in non-bailable case on medical ground is that the sickness or ailment which the accused is suffering is such that it cannot be properly treated within the Jail premises and that some specialized treatment is needed and his continued detention in Jail is likely to effect the capacity or is hazardous to his life (2000 SCMR-107). In instant case, the opinion of medical board constituted for the purpose of examining the accused and his medical documents fulfil the given criteria and thus retaining the accused in prison is seemingly against the very purpose of administration of Justice.

7. For what has been discussed above, instant bail petition stands allowed subject to furnishing bail bonds to tune of rupees 100,000/- 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.

8. Announced in open Court.



Sayed Fazal Wadood, -
AD&SJ/JSC, Orakzai at Baber Mela