

3

**IN THE COURT OF ABDUL BASIT  
ADDITIONAL SESSIONS JUDGE-II, ORAKZAI**

**Petition No. 112/BA of 2023**

*"Aqid Ali... Versus ... The State"*

**Order---3**  
03.01.2024

Mr. Abid Ali Advocate for accused/petitioner; DyPP for State are in attendance.

Accused/petitioner Aqid Ali s/o Noor Muhammad seeks his post arrest bail in case FIR no. 46 dated: 15.11.2023 under section 11-B of KP CNSA and 15AA of Kurez Boya Police Station, Orakzai.

Complainant and other police officials during routine patrolling confronted a person who was walking in the area of Kurez/Dawliye chowk; that on his personal search, complainant recovered one pistol of .30 bore without number tied on his waist along with fixed charger containing 04 live rounds of .30 bore; similarly, local police also recovered second pistol of .30 bore from his trouser fold alongwith fixed charger containing 05 live rounds of .30 bore for which he failed to produce any license or permit on the spot; that on his further search, 200 grams ICE was also recovered from right side pocket of his shirt, out of which 1 gram of ICE was separated and packed in parcel no. 1 for FSL and the balance ICE was packed in parcel no. 2, whereas, the recovered pistols were packed in parcel no. 3; hence, the accused was arrested and the FIR was registered.

Arguments heard and record gone through.

Perusal of the record reveals that recovery of ICE and two pistols alongwith fixed chargers containing 09 live rounds of 30 bore were shown to have been effected from the immediate possession of accused/petitioner. Though, there is no mandatory provision in such like cases to associate private witnesses, however, their association is also not expressly barred in cases, where there is availability of the public on the spot. In the instant case, record shows that the recovery has allegedly been made from the accused/petitioner from public place during daytime

ay  
Abid Basit  
Addl. District & Sessions Judge  
Orakzai  
03/01/2024

4


Contd--3  
03.01.2024

when the absence of public is not expected at the spot at the relevant time; therefore, the local police was supposed to associate private witnesses but they did not. FSL report is not received so far despite lapse of more than one month so as to determine that whether the recovered contraband is ICE or something else. As per available record, accused/petitioner has no history of involvement in such like cases. All of above facts make the case of accused/petitioner one of further inquiry; therefore, keeping him behind the bar would serve no useful purpose.

So, in the circumstances the bail application is accepted and accused/petitioner is admitted to bail provided he furnishes bail bonds in sum of Rs. 100,000/- with two sureties each in the like amount to the satisfaction of this court. Sureties must be local, reliable and men of means. My order is tentative in nature and shall have no bearings on merits of the case. Copy of this order be placed on judicial and police files.

Requisitioned record be returned to the quarter concerned and file of this court be consigned to record room after necessary completion and compilation.

**Announced**  
03.01.2024

  
(Abdul Basit)  
Addl. Sessions Judge-II, Orakzai