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

BA No. 20/4 of 2022
Jaleel 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 - 8	09/10/2022	<p>Mr. Asad Khan Muhammad Zai Advocate for accused/petitioner; Muhammad Zubair APP for State are in attendance.</p> <p>2. This is the disposal of Post arrest bail application presented by accused/petitioner Jaleel Khan son of Fazal Kareem resident of Qaum Sipah Tappa Warmaz Khel, village Speen Qabar, Tehsil Bara District Khyber.</p> <p>3. Malik Abdul Janan SHO along with other police officials of Police Station Kalaya, Orakzai were present at Karghano Check post. Present accused/petitioner namely Jaleel Khan along with his co-accused namely Shaukat Khan were travelling through Motor Car bearing registration No. 264/ASR Model-2009 of black colour driven by Jaleel Khan were stopped by the complainant for the purpose of checking. On search of the said car, the SHO recovered 10 packets of chars from the secret cavity made beneath the one head light of the car and similarly recovered 10 packets of chars from the secret cavity made beneath the other head light of the car. On further search of Motorcar, SHO also recovered 20 packets of chars wrapped in yellow scotch tape from secret cavity made beneath the rear seat of the car. Total 48000 grams chars were recovered by the SHO. Criminal Law was brought into motion against the accused and resultantly, FIR bearing No. 43 dated: 30/03/2021 was registered against the accused by attracting Section 9-D of the KP Control of Narcotics Substances Act, 2019, in Police Station Kalaya 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>


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Addl. District & Sessions Judge
Orakzai at Hangu

4. Learned counsel for accused/petitioner and learned Assistant Public Prosecutor for State were heard at length and file gone through.

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 have been referred to Medical Board particularly constituted for the purpose including physical examination of such accused. The 04 members Medical Board consisting upon Orthopedic Surgeon, Medical Specialist, General Surgeon and Deputy Medical Superintendent has opined in a Report dated: 21-03-2022 in following terms;

"The accused is examined by the medical board and answers to the following points of honorable court judge are made:-

1. *Whether petitioner is sick or ill?*

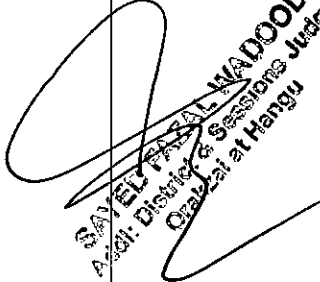
Answer: Yes, according to previous ultrasound report Jalil Khan has Cholelithiasis. Patient needs repeat ultrasound from an expert radiologist for hepatobiliary tract. Patient is asymptomatic at the moment but he may develop acute symptoms.

2. *Answer: Cholelithiasis treatment of choice is cholecystectomy. But it is an elective procedure, not an emergency. If the accused develop symptoms he may need surgical interventions at DHQ or any tertiary care hospital after optimization of the patient/accused.*

3. *Answer: As mentioned above he will need consultation in a DHQ or tertiary care hospital.*

4. *Answer: Yes, it can cause complications due to gall stones."*

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

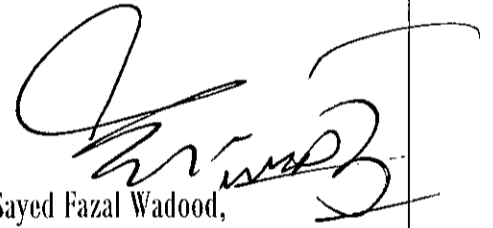

SAYEL FARAZ WAJOOD
Magr. District & Sessions Judge
Quadrant at Hangu

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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 reflects that it is an elective procedure, not an emergency and if the accused develop symptoms, he may be treated at DHQ hospital. As the matter is not falling under category of emergency and treatment thereof, if needed, can be provided in DHQ hospital; therefore sole ground of medical for grant of bail is not considerable.

7. For what has been discussed above, instant bail petition stands dismissed. 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