

IN THE COURT OF SYED OBAIDULLHA SHAH,
SESSIONS JUDGE/JUDGE SPECIAL COURT,
ORAKZAI AT BABER MELA

Bail Application No. : 11/4 of 2023
Date of Institution : 21.02.2024
Date of Decision : 22.02.2024

SHAHID NOORVS THE STATE

ORDER

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

2. Accused/petitioner, **Shahid Noor** s/o Olas Mir seeks his post arrest bail in case FIR No. 05, dated 20.02.2024 registered U/S 9 (d) of the Khyber Pakhtunkhwa CNSA, 2019 at Police Station Mishti Mela, wherein as per contents of FIR, the complainant along with other police officials having laid a picket were present on the spot where at about 1600 hours, a person holding a plastic shopper in his hand on way from Sangra towards the picket, on seeing the police party tried to escape but he was overpowered. Nothing incriminating was recovered from his personal search. The search of the shopper led the complainant to the recovery of 3000 grams of chars. Hence, the present FIR.

3. Learned counsel for defense argued that the accused/petitioner has falsely been implicated in the instant case to scot-free the actual culprit, that the FSL report is not available on file, that there is no previous history of the accused/petitioner in such like cases.

4. Learned DPP for the state put forward his arguments that the accused/petitioner was arrested

on the spot and the offence falls within the prohibitory clause of section 497 CrPC.

5. In the light of arguments advanced by the DPP and counsel for the accused/petitioner, record gone through which shows that though the accused/petitioner is directly nominated in the FIR and the offence for which the accused/petitioner is charged, attracts the prohibitory clause of section 497 CrPC; however, the occurrence has allegedly taken place during broad daylight but no effort has been made to associate any witness from the public with the process of search or recovery. Moreover, the accused/petitioner is of the age of 16 years as per card of arrest; therefore, he is also entitled for the concession of bail under sub-section 4 of section 6 of Juvenile Justice System Act, 2018. Furthermore, the FSL report is yet awaited to show the nature of the substance recovered.

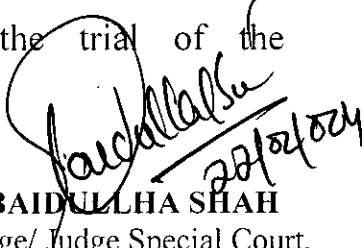
6. Hence, in view of what is discussed above, bail petition in hand stands accepted and the accused/petitioner is admitted to the concession of bail provided he submits a bail bond in the sum of Rs. 100,000/- with two sureties each in the like amount to the satisfaction of this court. The sureties must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

7. Order announced. File of this court be consigned to record room after its necessary completion and compilation.

8. This Order is tentative in nature and would have got no effect upon the trial of the accused/petitioner.

Dated: 22.02.2024




SYED OBAIDULLA SHAH
Sessions Judge/ Judge Special Court,
Orakzai at Baber Mela