

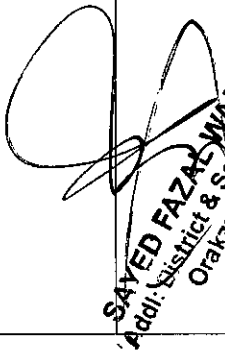
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**IN THE COURT OF ADDITIONAL SESSIONS JUDGE/JUDGE SPECIAL COURT
ORAKZAI, AT BABAR MELA**

BA No. 92/4 of 2022

Khalid 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	09/09/2022	<p>Mr. Insaf Ali 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 Khalid Khan son of Khizar Ameen resident of Qaum Zakha Khel Tappa Zao Din Khel, Tehsil Bara of District Khyber.</p> <p>3. Muhammad Shafiq SHO along with other police officials of Police Station Kalaya, Orakzai were present at Karghano Check post. Present accused/petitioner namely Khalid Khan was travelling through Motorcycle bearing registration No. GTJ-5733 was stopped by the complainant for the purpose of checking. On search of the accused, the SHO recovered 04 packets of chars from the lap of the accused, which were wrapped in yellow scotch tape. Total 4000 grams chars were recovered by the SHO. Criminal Law was brought into motion against the accused and resultantly, FIR bearing No. 135 dated: 02/11/2021 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> <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</p>


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

such accused. The 04 members Medical Board consisting upon General Surgeon, Medical Specialist, Orthopedic Surgeon and Deputy Hospital Administrator has opined in a report with the name of Assessment Of Medical Board DHQ Hospital Mishti Mela Orakzai dated: 08-09-2022 in following terms;

“After detailed history and examination of patient and assessing his lab results, the medical board came to the conclusion that the patient is suffering from blood disorder that is anemia and B12 deficiency. Chronic anemia can lead to cardiac complications. His mental condition is not stable enough at the moment that may need medical psychiatric opinion or admission in drug rehabilitation center. The patient needs specialized care regarding his health otherwise further jail may adversely affect his general wellbeing and mental condition.”

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 60,000/- with one surety; 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