

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

Bail Application No. : 13/4 of 2024  
Date of Institution : 18.03.2024  
Date of Decision : 20.03.2024

TAHSEEN VS THE STATE


ORDER

DPP, Umar Niaz for the State and Khursheed Alam Advocate for accused/petitioner present. Record received. Arguments heard and record gone through.

2. Accused/petitioner, **Tahseen** s/o Jamid Ali seeks his post-arrest bail in case FIR No. 10, dated 16.02.2024, u/s 9 (d) CNSA of Police Station Kalaya, wherein as per contents of FIR, the police, having laid a picket were present on the spot where at about 1200 hours a person holding a blue colour plastic shopper in his right-hand walking on foot from Aliri Kandao Kacha Road near FC Port towards the picket was stopped but nothing incriminating was recovered from his personal search. The search of the shopper led the complainant to the recovery of 02 packets of chars wrapped with yellow colour scotch tape, each weighing 1000 grams, making a total of 2000 grams. 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 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

  
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on the spot and more than 01 kilogram of chars has been recovered from his possession.

5. In the light of arguments advanced by the DPP and counsel for the accused/petitioner and the available record it is observed 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. Accused/petitioner, after his arrest, has gone through the process of investigation but he has neither confessed nor admitted his guilt. Moreover, investigation in the instant case is complete and the accused/petitioner is no more required to the police for further investigation.

6. In these circumstances, 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. Before parting with the order, it is pertinent to mention here that the father of the accused/petitioner present before court submitted application wherein, he has stated that he had handed over his son (accused/petitioner) to the local police owing to his bad and disobedient behavior, but the SHO instead of implicating him in 151/107 CrPC, has charged him u/s 9 (d) CNSA and planted 02 kg of chars against him. In view of the application of the father

  
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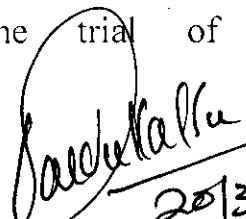
FIR No. 10, Dated 16.02.2024, u/s 9 (d) CNSA, PS Kalaya

of the accused/petitioner, the Naib Court was directed to produce the case property of the instant case before the court; however, it was reported that the same has not been deposited in District Mal Khana. Learned DPP stated that all the police stations have been notified by the SP Investigation regarding deposition of the case property in District Mal Khana within 12 hours after the occurrence. This behavior of the police official in light of the application of the father of the accused/petitioner, smells rat regarding implication of the accused/petitioner in a false case which is not warranted in the eyes of law. Copy of this order be sent to District Police Officer, Orakzai for inquiring into the matter, takes necessary actions and submits his report before the court.

8. Order announced. File of this court be consigned to record room after its necessary completion and compilation.
9. This order is tentative in nature and would have no effect upon the trial of the accused/petitioner.

Dated: 20.03.2024



  
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