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BA No. 15/4 of 2024
SPEEN GUL VS STATE

FIR No. 16, Dated 20.03.2024, u/s 9 (d) CNSA, PS Kalaya

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

Bail Application No. : 15/4 of 2024
Date of Institution : 26.03.2024
Date of Decision : 28.03.2024

SPEEN GUL VS THE STATE

ORDER

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

2. Accused/petitioner, **Speen Gul** s/o Behram Gul seeks his post-arrest bail in case FIR No. 16, dated 20.03.2024, u/s 9 (d) CNSA of Police Station Kalaya, wherein as per contents of FIR, the complainant along with other police officials acting on information regarding smuggling of narcotics from Kalaya to Kurez, laid a picket on the spot where at about 1445 hours a motorcycle riding by two persons from Kalaya was stopped for the purpose of checking. The pillion passenger – who later on disclosed his name as Janab Gul, the co-accused – was having a blue colour bag in his lap which led the complainant to the recovery of 05 packets of chars wrapped with yellow colour scotch tape, each weighing 1000 grams, making a total of 5000 grams. The driver of the motorcycle disclosed his name as Speen Gul, the present accused/petitioner. 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 alleged occurrence has taken place on 20.03.2024 and the samples were sent to the FSL on 25.03.2024 with a delay of 05 days besides 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 more than 01 kilogram of chars has been recovered from his possession.


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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 recovery has not been effected from personal possession of the accused/petitioner. Moreover, the samples of chars have been transmitted to the FSL after about more than 04 days which delay has not been explained. The FSL report is yet awaited to show that whether the recovered substance was actually chars or otherwise. Accused/petitioner, after his arrest, has gone through the process of investigation but he has neither confessed nor admitted his guilt. As far as the connection of the accused/petitioner with the alleged contraband is concerned, it is yet to be determined during trial that whether the same belongs to the accused/petitioner or otherwise.

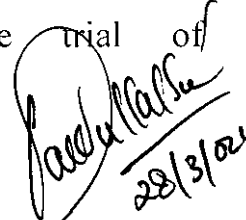
6. Hence, in view of what is discussed above, bail petition in hand stands accepted and the accused/petitioner is admitted to the concession of bail provided he submits a bail bond in the sum of Rs. 100,000/- with two sureties each in the like amount to the satisfaction of this court. The sureties must 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 no effect upon the trial of the accused/petitioner.

Dated: 28.03.2024




(SYED OBAIDULLAH SHAH)
Sessions Judge/Judge Special Court,
Orakzai at Baber Mela