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BA No. 16/4 of 2024
ASMAT ULLAH VS STATE
FIR No. 03, Dated 18.03.2024, u/s 9 (d) CNSA, PS Dabori
IN THE COURT OF SYED OBAIDULLAH SHAH
SESSIONS JUDGE/JUDGE SPECIAL COURT,
ORAKZAI AT BABER MELA

Bail Application No. : 16/4 of 2024
Date of Institution : 27.03.2024
Date of Decision : 29.03.2024
ASMAT ULLAH VS THE STATE

ORDER

DyPP, Iftikhar Ahmad for the State and Shaheen Muhammad Advocate for accused/petitioner present. Record received. Arguments heard and record gone through.

2. Accused/petitioner, **Asmat Ullah** s/o Noor Muhammad seeks his post-arrest bail in case FIR No. 03, dated 18.03.2024, u/s 9 (d) CNSA of Police Station Dabori, wherein as per contents of FIR, the complainant accompanied by other police officials having laid a picket on the spot received information regarding smuggling of narcotics via motorcycle from Arhanga, where at about 1600 hours a motorcycle riding by a person heading from Arhanga towards it, was signaled to stop but the rider tried to evade capture by speeding up the motorcycle. However, the police were able to apprehend him. A white colour shopper hanging from the left handle of the motorcycle was recovered wherefrom the complainant effected recovery of 03 packets of chars, each weighing 1000 grams, making a total of 3000 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 the alleged occurrence has taken place on 18.03.2024 but the FSL report is not available on file, that there is no previous history of the accused/petitioner in such like cases.


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4. Learned DyPP for the state put forward his arguments that the accused/petitioner was arrested on the spot and the recovery has been made from personal possession of the accused/petitioner.
5. In the light of arguments advanced by DyPP 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 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.
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. Copy of this order be placed on file police/judicial file.
8. This order is tentative in nature and would have no effect upon the trial of the accused/petitioner.

Dated: 29.03.2024



(Signature)
29/3/24
(SYED OBAIDULLAH SHAH)
Sessions Judge/Judge Special Court,
Orakzai at Baber Mela