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**IN THE COURT OF ABDUL BASIT
ADDITIONAL SESSIONS JUDGE-II, ORAKZAI**

Petition No. 23/4 of 2024

"Kiswar Khan... Versus ... The State"

Order---04

17.04.2024

Mr. Sanaullah Khan, advocate, for accused/petitioner and Dy.PP for State are in attendance.

Accused/petitioner Kiswar Khan s/o Fazal Kareem seeks his post arrest bail in case FIR No. 04 dated: 01.04.2024 under section 9-D of KP CNSA 15AA/419/420 PPC of Daboori Police Station, Orakzai.

Concise facts of the case are that complainant and other police officials on receiving spy information regarding the smuggling of chars and ammunition laid a barricade at given place, where in the meanwhile, a Land Cruiser Jeep approached there and was stopped for the purpose of search; that the person sitting on the front seat disclosed his name Raees Khan, and from his body search, the police recovered a Kalashnikov folding butt bearing no. 006152 alongwith fixed charger containing 28 live rounds of 7.62 mm bore; that a person sitting on the rear seat disclosed his name Jan Haider, and from his body search, the police recovered a Kalashnikov without butt bearing no. 03409 alongwith fixed charger containing 29 live rounds of 7.62 mm bore; that similarly, the driver of Jeep disclosed his name Kiswar Khan, who was also bodily searched but nothing incriminating recovered from his possession; however, during search of the vehicle, police recovered one packet chars each from inside the four doors of the vehicle making total 04 packets, which were wrapped with yellow scotch tape; that similarly, 03 packets of chars were also recovered from beneath the tyre placed in trunk of the vehicle; that each packet of chars weighed 1100 grams each making total of 7700 grams; that 10 grams of chars each was separated from each recovered packet which were packed in parcels no. 1 to 7 for FSL and the balance chars was

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packed in parcel no. 8; whereas, the arms and ammunitions were sealed into parcel no. 9; that upon cursory interrogation, Kiswar Khan shown the chars to be the joint ownership of him and Jan Haider; that they further disclosed that the vehicle was not registered having no documents; therefore, affixed a forged number plate; that the spot proceedings were recorded through mobile phone and saved in USB, which was sealed in parcel no. 10; that Raees Khan was charged for the offence under section 15-AA, while, Kiswar Khan and Jan Haider were charged for the offences under sections 9 D-CNSA, 15-AA and 419/420 PPC; that all the accused were arrested on the spot and the FIR was registered.

Arguments heard and record perused.

This is tentative assessment of record available on file as deep appreciation of case file is neither required nor warranted at this stage. Record provides that the local police has recovered a huge quantity of contraband from the vehicle and chars is claimed to be the joint ownership of accused/petitioner and co-accused Jan Haider. That the offence carries the maximum punishment, which also falls within the ambit of restrictive clause of section 497 Cr.PC. As far release of co-accused Raees Khan on bail and applicability of principle of rule of consistency to present accused/petitioner is related, it is held that the role of present accused/petitioner is different from co-accused released on bail. Arrest of accused/petitioner on the spot and recovery of huge quantity of chars connects the accused/petitioner with the commission of offence on its face and thus the Court is not inclined to extend him concession of bail, hence, the application is **dismissed**. Copy of this order be placed on police and judicial files.

Requisitioned record be returned to the quarter concerned and file of this court be consigned to record room after necessary completion and compilation.

Announced
17.04.2024


Abdul Basit
Addl. District Judge-II/JSC,
Orakzai