

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

Bail Application No : 30/4 of 2024  
Date of Institution : 24.04.2024  
Date of Decision : 25.04.2024

ASHRAF ETC. VS THE STATE

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ORDER

DPP, Umar Niaz for the State and Abid Ali

Advocate for accused/petitioners present. Record received. Arguments heard and record gone through.

2. Accused/petitioners, **Asraf (Ashraf)** s/o Pir Gul, **Aleem Abbas** s/o Kameen Ali and **Ahmad Abbas** s/o Muhammad Shafiq, after being refused to be released on bail vide order dated 23.04.2024 of the learned Judicial Magistrate-I, Orakzai, seek their post-arrest bail in case FIR No. 18, dated 17.04.2024, u/s 15AA of Police Station Kurez, wherein, as per contents of FIR, the complainant along with other police officials during routine patrolling, acting on information regarding smuggling of arms and ammunitions from Bashe Pati Sheikhan to District Kohat via a motorcar bearing no. M-2024/Peshawar, laid a picket on the spot where at about 1730 hours a motorcar heading from Bashe Pati was intercepted wherein three persons were found. The driver, identified as

  
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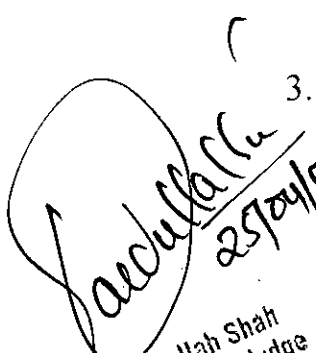
Asrah, was made step out of the motorcar whose personal search led the complainant to the recovery of 30-bore pistol bearing no. 31142842 along with a fixed charger containing 07 live rounds.

The person occupying the front passenger seat, identified as Aleem Abbas, was also disembarked and a 9MM pistol bearing no. 05936420296 along with a fixed and a spare charger containing 35 live rounds was recovered from his personal search.

Upon debording, the person occupying the rear seat disclosed his name as Ahmad Abbas and a 30-bore pistol bearing no. 1612 along with a fixed charger containing 07 live rounds was seized from him.

The search of the motorcar resulted in the recovery of 01 RPG7 bearing no. NPC-248, 02 Kalashnikovs bearing numbers mentioned in the recovery memo along with two fixed and three spare chargers containing 173 live rounds. Hence, the present FIR.

3. Learned counsel for the accused/petitioners argued that the accused/petitioners have falsely been implicated in the instant case to let free the true wrongdoers, that there is no previous history

  
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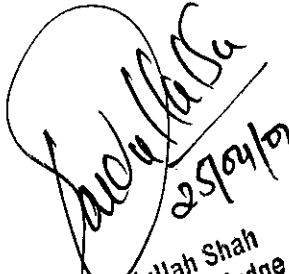
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FIR No. 18, Dated: 17.04.2024, u/s: 15AA, Police Station: Kurez

of the accused/petitioners in such like cases. On the other hand, learned DPP presented his arguments stating that the accused/petitioners were apprehended on the spot and the recovery have been made from their personal possession as well as the vehicle driven by the accused/petitioners.

4. Perusal of the case file reveals that though the accused/petitioners are directly nominated in the FIR and the recovery have been from personal possession of each accused/petitioner and the vehicle as well, but the offence for which the accused/petitioners are charged, does not fall within the prohibitory clause of section 497 Cr.P.C. Moreover, the report of FSL or that of the arms expert is not available on file which would indicate whether the arms and ammunitions in question were in operational condition or otherwise, even the road permit certificate or any other document is not available on file to show the transmission of the alleged arms and ammunition to the FSL. Furthermore, there is no previous history of the accused/petitioners in such like cases.

5. In these circumstances, the instant bail is accepted and the accused/petitioners are admitted to the concession of bail provided each of the

  
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accused/petitioner submits a bail bond in the sum of Rs. 100,000/- with two sureties each, each in the like amount to the satisfaction of this court. The sureties must be local, reliable and men of means.

6. Order announced. File of this court be consigned to record room after its necessary completion and compilation. Copy of this order be placed on judicial/police file.

7. This order is tentative in nature and would have no effect upon the trial of the accused/petitioners.

Dated: 25.04.2024

*Obaidullah Shah*  
25/04/24  
SYED OBAIDULLAH SHAH  
Sessions Judge, Orakzai  
at Baber Mela

