

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

Petition No. 39/4 of 2024

“Waheedullah ... Versus ... The State”

Order---03

Mr. Sanaullah Khan, advocate, for petitioner is present.

11.05.2024

Complainant party has been served through Muharrir of police station but no one turned up in person, however, DyPP for the State is representing them.

Record received.

Accused/petitioner Waheedullah s/o Sher Bahadar seeks his post arrest bail in case FIR No. 29 dated 06.05.2024 under sections 324/353/148/149 PPC and 9D-CNSA of Kurez Boya Police Station, Orakzai.

Concise facts of the case are that complainant along with other police officials while patrolling in the area got spy information about the smuggling of charas; that they managed barricade on Dara Indara mountain, where at about 1230 hours, accused/petitioner along with other persons carrying white color sacks on their shoulders were coming from Bagran side; that on seeing the police, they started firing at them, whereat the police also opened fire at them in their self-defense; that the persons dropped the sacks and escaped towards the forest; that constable Abdul Sattar sustained injuries with the firing of Hakeem; that after stoppage of firing, the injury sheet of Abdul Sattar was prepared and he was shifted to THQ Kalaya under the escort of constable Shabbir Khan; that the sacks left by

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accused were checked, six packets of charas from the sack dropped by Saqib, seven packets of charas from the sack dropped by Hayat Wali alias Sikandar, five packets of charas from the sack dropped by Maeed, eight packets of charas from the sack dropped by Hakeem and four packets of charas from the sack dropped by Waheedullah were recovered, which all packets were wrapped with yellow scotch tape; that each packet weighed 1000 grams making total quantity of each sack to be 5940, 6930, 4950, 7920 and 3960 grams respectively; that 10 grams of charas was separated from each packet and packed in parcels no. 1-6, 8-14, 16-20, 22-29, 31-34 respectively, whereas, the balance charas recovered from each sack was amalgamated respectively and sealed in parcels no. 7, 15, 21, 30 & 35 respectively; hence, the FIR.

Arguments heard and record gone through.

Viewing the arguments advanced by learned counsel for parties and record on file, this is concluded that admittedly a huge quantity of charas has been shown to be recovered by the police from the spot; however, the recovery was not affected from direct/personal possession of the accused/petitioner. The FSL report is not received so far to determine that whether the recovered contraband is charas or otherwise. As per available record, accused/petitioner has not confessed his guilt. The record is silent about the fact that as to how the local police have identified the accused/petitioner with specific positioning and dropping the specific sack at the given point especially

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when the accused/petitioner on seeing the police has opened fires at them. No effective role of firing has been attributed to accused/petitioner nor has any crime empty been recovered from his place. No weapon of offence has been recovered from possession or on the pointation of accused/petitioner. This is yet to be ascertained after recording of evidence that as to how the accused/petitioner has decamped from the spot in presence of sufficient number of the police party at the crime scene. There is neither any injury sheet nor any medico-legal report available on file to prima facie establish sharing of common intention of accused/petitioner with the co-accused. All the above facts make the case of accused/petitioner one of further inquiry; therefore, keeping him behind the bar would serve no useful purpose.

So, in the circumstances the bail application is accepted and accused/petitioner is admitted to bail provided he furnishes bail bonds in sum of Rs. 300,000/- with two sureties each in the like amount to the satisfaction of this court. Sureties must be local, reliable and men of means. My order is tentative in nature and shall have no bearings on merits of the case. Copy of this order be placed on judicial and police files.

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



Announced
11.05.2024

(Abdul Basit)
Addl. Sessions Judge-II, Orakzai