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

Petition No. 58/4 of 2024

“Abdullah... Versus ... The State”

Order---04

14.06.2024

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

Accused/petitioner Abdullah s/o Ashmal Khan seeks his post arrest bail in case FIR no. 94 dated: 28.09.2023 under sections 324/353/148/149 PPC and 9D-CNSA of Kalaya Police Station, Orakzai.

Concise facts of the case are that complainant got spy information about smuggling of charas by Hidayat, Abdullah, Majeed, Sufiyan and Hazrat from Mirodarra to Barra District Khyber; that they had arranged barricade at Karghan Krappa *algadda* hilly area, where at about 1000 hours the accused/petitioner along with other four accused each carrying one sack on their shoulders appeared; that the police party directed them to stop, who thrown their sacks on the spot and started running towards mountain; that all accused were armed with firearms; that when the police attempted to collect the sacks, all of the accused have opened fires at them, whereat, police also opened fire on accused in self-defense; that accused escaped towards the mountain and left behind their sacks; that police took into possession 05 sacks of white color; that the sack belonging to accused Hidayat contained 20 packets of charas each weighing 1000 grams, out of which 10 grams charas was separated from each packet and packed in parcels no. 1 to 20 for FSL and the balance charas 19800 grams was amalgamated and packed in parcel no. 21; that the sack belonging to accused Abdullah contained 20 packets of charas each weighing 1000 grams, out of which 10 grams charas was separated from each packet and packed in parcels no. 22 to 41 for FSL and the balance charas 19800 grams was amalgamated and packed in parcel no. 42; that sack belonging to accused Majeed contained 20 packets of

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charas each weighing 1000 grams, out of which 10 grams charas was separated from each packet and packed in parcels no. 43 to 62 for FSL and the balance charas 19800 grams was amalgamated and packed in parcel no. 63; that sack belonging to accused Sufiyan contained 20 packets of charas each weighing 1000 grams, out of which 10 grams charas was separated from each packet and packed in parcels no. 64 to 83 for FSL and the balance charas 19800 grams was amalgamated and packed in parcel no. 84; that the sack belonging to accused Hazrat also contained 20 packets of charas each weighing 1000 grams, out of which 10 grams charas was separated from each packet and packed in parcels no. 85 to 104 for FSL and the balance charas 19800 grams was amalgamated and packed in parcel no. 105; that empty sacks weighing 560 grams were packed in parcel no. 106; that later on, the present accused/petitioner was arrested, hence, the FIR.

Arguments heard and record gone through.

Perusal of the record reveals that recovery of charas was shown to have been allegedly effected from the sack thrown by the accused/petitioner but neither any incriminating material has been recovered from his personal possession neither he was arrested on the spot. As per available record, accused/petitioner has not made confession nor does he has any previous criminal history of his involvement in such like cases as per available record. There is no sketch of accused/petitioner brought on file nor the fact is disclosed by the police that how did they have recognize accused/petitioner by his name despite the fact that no one was arrested on the spot. Not a single police official has received injury throughout; therefore, applicability of section 324 PPC is yet to be seen at the time of framing of charge. It is also doubtful that how the police verified that which sack has left behind by whom person. All of above facts make the case of accused/petitioner one of further inquiry. Importantly, the co-accused Majeed having similar role of accused/petitioner has already released on bail by august Peshawar High Court,

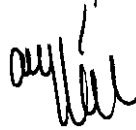
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attested copy of the order is available on file; therefore, accused/petitioner is also entitled to the concession bail on the principle of rule of consistency.

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. 200,000/- 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 the quarter concerned and file of this court be consigned to record room after necessary completion and compilation



Announced
14.06.2024

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