

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


Bail Application No. : 42/4 of 2024
Date of Institution : 01.07.2024
Date of Decision : 04.07.2024

IMTIAZ KHAN VS THE STATE

ORDER

DPP, Umar Niaz for the State and Adnan Afridi Advocate for accused/petitioner present. Arguments heard and record gone through.

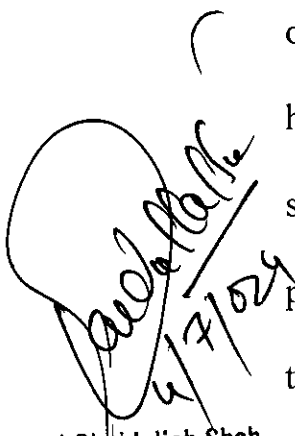
2. Accused/petitioner, **Imtiaz Khan** s/o Starzai Khan seeks his post-arrest bail in case FIR No. 42, dated 25.06.2024, u/s 9 (d) CNSA of Police Station Mishti Mela, wherein as per contents of FIR, the complainant along with other police officials, duly armed in official vehicle having laid a picket were present on the spot, where at about 1500 hours a motorcycle riding by two persons, was stopped for the purpose of checking. Upon their personal search, the complainant recovered a blue color plastic shopper containing 4000 grams of chars from the lap of the present accused/petitioner while a sack containing 5000 grams of chars was recovered from a person occupying the pillion seat of the motorcycle. Hence, the present FIR.


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3. Learned counsel for the accused/petitioner argued that the accused/petitioner has falsely been implicated in the instant case to scot-free the actual culprit, that there is no FSL report available on file despite lapse of 09 days, that the daily diary regarding departure of seizing officer from the Police Station to the spot on the day of occurrence is not available on file.

4. Learned DPP for the state put forward his arguments that the accused/petitioner was arrested on the spot for the commission of heinous offence and huge quantity of chars has been recovered from his possession.

5. In the light of arguments advanced by the DPP and counsel for the accused/petitioner, record gone through which shows that 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. Moreover, as far as the non-availability of FSL report is concerned, it is pertinent to mention here that the case is in its initial stage and the samples have been transmitted within the prescribed period of time. It is also evident from the record that the accused/petitioner was previously been charged


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in case FIR no. 07, dated 11.12.2022, u/s 9(d) CNSA of Police Station Kalaya, wherein the accused/petitioner, after full trial, had been placed on Probation for a period of two years; which shows the tendency of the accused/petitioner towards smuggling of Narcotics. Furthermore, sufficient material is available on file which reasonably connect the accused/petitioner with the commission of offence. The points raised by learned counsel for the defense need deep appreciation and probe of evidence which cannot be considered at bail stage. Hence, the accused/petitioner is not entitled for the concession of bail at this stage. Accordingly, for the stated reasons, bail petition in hand stands dismissed being meritless.

6. Order announced. File of this court be consigned to record room after its necessary completion and compilation.

Dated: 04.07.2024

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