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

Petition No. 66/4 of 2024

"Ghulam Ahmad etc. ... Versus ... The State"

Order---03

04.07.2024

Counsel for accused/petitioners & SrPP for State in attendance.

Ghulam Ahmad s/o Pir Ahmad and Attaullah son of Nasrullah, accused/petitioners, seek their post arrest bail in case FIR no. 39 dated: 01.07.2024 under section 9-C CNSA of Kurez Boya Police Station, Orakzai.

Arguments heard and record gone through.

Concise facts of the case are that complainant along with other police officials during search and strike operation have visited Ghulam Ahmad *alias* Ghulam Haji Godar Teerah Hotel, where, during search of the room, they recovered 05 sachets wrapped in plastic bag and the other charas covered in yellow scotch tape total weighing 400 grams charas from water cooler; that 10 grams charas was separated and packed in parcel no. 01 for chemical examination and the balance charas 390 grams charas was packed in parcel no. 02; that owner of the hotel disclosed his name Ghulam Ahmad, who claimed the recovered charas as his ownership; that upon search of a shop attached to the hotel, they have recovered 02 white sachets of charas of 110 grams from showcase of the shop; that 10 grams of charas was separated and packed in parcel no. 3 for FSL and balance 100 grams charas was packed in parcel no. 4; that digital scale was sealed into parcel no. 5; that videography of the proceedings was made and converted into USB, which was sealed in parcel no. 6; that shopkeeper disclosed his name as Attaullah; that accused/petitioners were arrested on the spot, hence, the FIR.

Perusal of the record reveals that recovery of 400 grams and 110 grams of charas were shown to have been effected from hotel room and a shop attached to the hotel and not from direct possession of the accused/petitioners. Though, there is no mandatory provision

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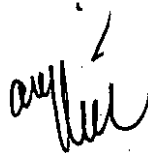
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in such like cases to associate private witnesses, however, their association is also not expressly barred in cases, where there is availability of public on the spot. In the instant case, record shows that recovery has allegedly been made from the accused/petitioners from public place during daytime when the absence of public is not expected at the spot at the relevant time; therefore, the local police was supposed to associate private witnesses but they did not. FSL report is not received so far to determine that whether the recovered contraband is charas or something else. As per available record, accused/petitioners have no history of involvement in such like cases. The case of accused/petitioners does not fall within the ambit of prohibitory clause of section 497 of the Criminal Procedure Code, 1898. All of above facts make the case of accused/petitioners one of further inquiry; therefore, keeping them behind the bar would serve no useful purpose.

So, in the circumstances the bail application is accepted and accused/petitioners are admitted to bail provided they furnish bail bonds in the sum of Rs. 80,000/- 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
04.07.2024


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