

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


Bail Application No : 43/4 of 2024
Date of Institution : 02.07.2024
Date of Decision : 05.07.2024

MUHAMMAD KHAN VS THE STATE

ORDER

DPP, Umar Niaz for the State and Shoaib Nastrat Khel for accused/petitioners present. Arguments heard and record gone through.

2. Accused/petitioners, **Muhammad Khan** s/o Safi Ullah Jan, r/o Caste Sultan Zai, District Orakzai after being refused to be released on bail vide order dated 01.07.2024 of the learned Judicial Magistrate-I, Orakzai, seeks his post-arrest bail in case FIR No. 50, dated 27.06.2024, u/s 15AA of Police Station Kalaya, wherein, as per contents of FIR, the complainant along with other police officials having laid a picket were present on the spot, where at about 1700 hours a motorcar of white colour on way from Manzakhay side towards the spot, was stopped for the purpose of checking, deboarded the driver of motorcar. Upon his personal search, nothing incriminating was recovered from his personal possession but the search of the motorcar, the local police recovered 02 Kalashnikovs without license along with 03


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chargers containing 13 live rounds of 30-bore from rear seat of the motorcar.

3. Learned counsel for the accused/petitioner argued that the accused/petitioner has falsely been implicated in the instant case to let free the true wrongdoers, that there is no previous history of the accused/petitioner in such like cases. On the other hand, learned DPP presented his arguments stating that the accused/petitioner was apprehended on the spot and the recovery have been made from vehicle driven by the accused/petitioner.

4. Perusal of the case file reveals that though the accused/petitioner is directly nominated in the FIR and the recovery have been effected from the vehicle driven by the accused/petitioner, but the offence for which the accused/petitioner is 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,


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there is no previous history of the accused/petitioner in such like cases.

5. In these circumstances, the instant bail is accepted and the accused/petitioner is admitted to the concession of bail provided, he 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: 05.07.2024



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