

BA No. 44/4 of 2024
SAKHI GUL ETC VS THE STATE
FIR No. 45, Dated 30.06.2024, u/s 11-A CNSA,
PS Mishti Mela

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

Bail Application No. : 44/4 of 2024
Date of Institution : 06.07.2024
Date of Decision : 09.07.2024

SAKHI GUL ETC VS THE STATE

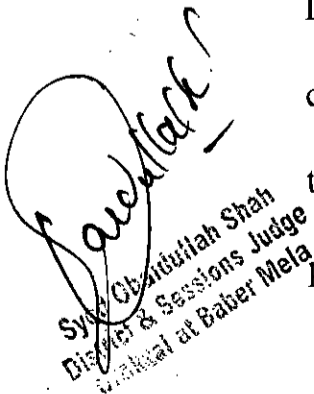
ORDER

DPP, Umar Niaz for State and Khursheed

Alam Advocate for accused/petitioner present.

Record Received. Arguments heard and record gone through.

2. Accused/petitioner, **Sakhi Gul** s/o Mastan Gul, and **Noor Ul Ameen** s/o Haider Khan after being refused to be released on bail vide order dated 05.07.2024 of Judicial Magistrate-I, Tehsil Court Kalaya, seek their post-arrest bail in case FIR No. 45, dated 30.06.2024, u/s 11-A CNSA of Police Station Mishti Mela, wherein as per contents of FIR, the complainant, Muhammad Younas SHO along with other police officials having laid a picket were present on the spot where at about 1500 hours, a motorcycle riding by two persons on way from Dabori side, was stopped for the purpose of checking. The search of the rider of motorcycle, led the complainant to the recovery of a white colour plastic shopper containing 60 grams of ice from his



Syed Obaidullah Shah
District & Sessions Judge
Orakzai at Baber Mela

right side pocket, while a person occupying the pillion seat of the motorcycle led the complainant to the recovery of a black colour plastic shopper containing 50 grams of ice from left side pocket. Hence the present FIR.

3. Learned counsel for defense argued that the accused/petitioners have falsely been implicated in the instant case to scot-free the actual culprits, that the FSL report is not available on file, that there is no previous history of the accused/petitioner in such like cases.

4. Learned DPP for the state put forward his arguments that the accused/petitioners were arrested on the spot and recovery has been made from their personal possession.

5. In the light of arguments advanced by the DPP and counsel for the accused/petitioners, record gone through which shows that though the accused/petitioners are directly nominated in the FIR and the recovery has been effected from their personal possession of the accused/petitioners; however, the offence for which the accused/petitioners are charged, does not attract the prohibitory clause of section 497 CrPC. The occurrence has allegedly taken place during broad daylight but no effort has been made to associate


Syed Ghazikullah Shah
Magistrate & Sessions Judge
Talukdar at Baher Mela

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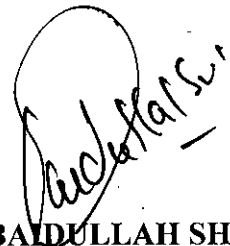
any witness from the public with the process of search or recovery. Moreover, the FSL report is yet awaited to show the nature of the substance recovered. Accused/petitioners, after their arrest, have gone through the process of investigation but they have neither confessed nor admitted their guilt.

6. Hence, in view of what is discussed above, bail petition in hand stands accepted and the accused/petitioners are admitted to the concession of bail provided he submits a bail bond in the sum of Rs. 100,000/- with two sureties each in the like amount to the satisfaction of this court. The sureties must be local, reliable and men of means.

7. Order announced. File of this court be consigned to record room after its necessary completion and compilation. Copy of this order be placed on police/judicial file.

8. This order is tentative in nature and would have no effect upon the trial of the accused/petitioner.

Dated: 09.07.2024


(SYED OBAIDULLAH SHAH)
Sessions Judge/Judge Special Court,
Orakzai at Baber Mela

