

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

Petition No. 72/4 of 2024

"Ameer Hamza... Versus ... The State"

Order---03

19.07.2024

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

Accused/petitioner Ameer Hamza s/o Abdul Jameel seeks his post arrest bail in case FIR no. 42 dated: 11.07.2024 under section 9-D KP CNSA of Ghiljo Police Station, Orakzai.

Concise facts of the case are that, complainant along with other police officials had arranged a barricade at given place, where they confronted a person in suspicious condition approaching from Mamozai side having green color sack in his right hand; that the person was stopped and the sack was searched, which led the recovery of 1100 grams of charas, out of which 10 grams of charas was separated for FSL and packed in parcel no. 1 and the balance charas along with sack was packed in parcel no. 2; that photography of the spot was made; that the person disclosed his name as Amir Hamza who was arrested on the spot and the FIR was registered.

Arguments heard and record gone through.

Perusal of the record reveals that though, there is no mandatory provision in such like cases to associate private witnesses, however, their association is also not expressly barred in cases, where there is availability of the public on the spot. In the instant case, record shows that the recovery has allegedly been made from the accused/petitioner from public place; therefore, the local police was supposed to associate private witnesses but they did not. FSL report is not received so far as to determine that whether the recovered contraband is chars or something else. As per site plan, the local police had allegedly arranged a barricade on straight road, which is apparently visible to the accused from considerable distance but this is strange that accused/petitioner despite having the

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contraband in his possession moved ahead, which is need to be sort out after recording of evidence. As per available record, accused/petitioner has no history of involvement in such like cases. Investigation in the case has been completed & accused/petitioner is no more required to the local police for further investigation. It is a border line case between section 9-C and 9-D of the Act. There is no FSL report received so far to determine as to whether the recovered contraband was chars or something else. All of above facts make the case of accused/petitioner one of further inquiry; therefore, keeping him behind the bar would serve no useful purpose.

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. 100,000/- 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. Copies of this order are placed on judicial and police files.

Requisitioned record returned to the quarter concerned and file of this court consigned to record room after necessary completion and compilation.



Announced
19.07.2024

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