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

Petition No. 75/04 of 2024

"Surat Ali ... Versus ... The State"

Order---02

21.08.2024

Mr. Sanaullah Khan Advocate for accused/petitioner and DyPP for State are in attendance. Record received.

Accused/petitioner Surat Ali s/o Anees Ali seeks his post arrest bail in case FIR no. 45 dated: 01.08.2024 under section 9-D of KP CNSA of Kurez Boya Police Station, Orakzai.

Complainant reported that he along with the police officials was on patrol duty of the area when they had arranged a barricade at give place and were busy in checking when in the meanwhile two persons riding on motorcycle approached, who were stopped by police for checking being suspicious; that both persons were deboarded from the motorcycle, rider of the motorcycle disclosed his name Tasveer Ali, who was personally searched but nothing incriminating has been recovered from his possession while the second person sitting on pillion seat disclosed his name Surat Ali, who was holding a folded blue color *chadar* in his hands, which was checked and the police recovered 04 packets of chars wrapped in yellow scotch tape from it; that each packet was weighed through a digital scale and each packet weighed to be 1000 grams making total quantity of 4000 grams of charas while the *chadar* was weighed to 230 grams; that 10 grams of chars from each packet was separated for FSL and packed in parcels no. 1 to 4 and the balance chars 3960 grams along with *chadar* was packed into parcel no. 5; that videography of the recovery was made by driver Syed Hassan through mobile phone which was saved into USB; that the USB was sealed in parcel no. 6; that the motorcycle 125 bearing no. 6181-Kohat, engine no. 6527690 and chassis no. 213132 was also taken into possession; that both accused were arrested on the spot and FIR was registered.

all
21/08/2024

Abdul Basit
Addl. District & Sessions Judge-II
Orakzai at Baber Mela,
Hangu

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Contd. 02

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Arguments heard and record perused.

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 huge quantity of charas moved towards them, which need to be sought out after recording of evidence. According to card of arrest and Form-B provided by accused/petitioner, he is under the age of 18 years, who also deserves his release on bail being a juvenile. As per available record, accused/petitioner has no history of involvement in such like cases. All the above facts make the case of accused/petitioner one of further inquiry thus 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. 200,000/- 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
21.08.2024


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