

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

Petition No. 84/4 of 2024

“Muhammad Umar etc... Versus ... The State”

Order---2
23.08.202

Representative for accused/petitioner present and DyPP for State are in attendance. Record received.

Accused/petitioner Muhammad Umar s/o Multan Sher and Ahmed Shah son of Sahib Shah seek their post arrest bail in case FIR no. 79 dated: 15.08.2024 under section 11A CNSA of Kalaya Police Station, Orakzai.

Concise facts of the case are that complainant along with other police officials during routine patrolling of the area found 02 persons, who were found suspicious, therefore the police stopped them, who disclosed their names as Muhammad Umar son of Multan Sher and Ahmed Shah son of Sahib Shah; that during personal search of Muhammad Umar, police recovered a plastic envelop of white color containing 80 grams ICE from right side pocket of his shirt; that 01 gram ICE was separated and packed in parcels no. 01 for FSL and the balance ICE 79 grams was packed and sealed in parcel no. 02; that similarly, personal search of Ahmed Shah led the police to the recovery of 50 grams ICE from his trouser fold; that 01 gram ICE was separated and packed in parcels no. 03 for FSL and the balance ICE 49 grams was packed and sealed in parcel no. 04; that videography of the recovery proceedings made through cell phone was saved in USB, which was sealed in parcel no. 5; that accused Ahmed Shah was also found a proclaim offender in case FIR no. 18 dated 04.06.2023 of Mishti Mela police station; that both the accused were arrested on the spot, hence, the FIR.

Counsel for accused/petitioner has already submitted written arguments yesterday while DyPP for the state is heard today and record gone through.

Perusal of the record reveals that though, there is no mandatory provision in such like cases to associate private

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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/petitioners 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 ICE or something else. The offense does not fall within the prohibitory clause of section 497 Cr.PC, wherein, grant of bail is the rule and refusal an exception. All of above facts make the case of accused/petitioners 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/petitioners are admitted to bail provided they furnish 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. 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
23.08.2024

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