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BA No. 85/4 of 2024

MEHTAB ALI VS THE STATE

FIR No. 78, Dated 14.08.2024, u/s 11-A CNSA & 15AA,
Police Station: Kalaya

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

Bail Application No. : 85/4 of 2024
Date of Institution : 18.10.2024
Date of Decision : 24.10.2024


MEHTAB ALI VS THE STATE

ORDER

DPP, Umar Niaz for the State and Muhammad Ishaq Afridi Advocate for accused/petitioner present. Record has already been received. Arguments heard and record gone through.

2. Accused/petitioner, **Mehtab Ali** s/o Ayaz Ali, after being refused to be released on bail vide order dated 17.10.2024 of Judicial Magistrate-II, Tehsil Kalaya, seeks his post-arrest bail in case FIR No. 78, dated 14.08.2024, u/s 11-A CNSA and 15AA of Police Station Kalaya, wherein as per contents of FIR, the complainant, Muhammad Younas SHO along with other police personnel during routine patrolling were present on the spot where at about 1800 hours two suspicious persons walking on foot were stopped who disclosed their names as Mehtab Ali and Tehseen Ali. The complainant recovered a 30-bore pistol bearing no. 3105886 with a fixed charger containing 07 live rounds from trouser-fold of Mehtab Ali, the present accused/petitioner and 45 grams of ice from his side pocket. The complainant also recovered 40 grams of ice from side pocket of co-accused Tehseen Ali. Hence, the present FIR.

Learned counsel for defense argued that the accused/petitioner has falsely been implicated in the instant case in order to absolve the actual perpetrator, that the FSL report is not available on file, that there is no previous history of the accused/petitioner in such like cases.


24/10/24
Syed Obaidullah Shah
District & Sessions Judge
Orakzai at Baber Mela

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

5. In light of the arguments advanced by the DPP and counsel for the accused/petitioner, record gone through which shows that though the accused/petitioner is directly nominated in the FIR and the recovery has been effected from personal possession of the accused/petitioner; however, the offence for which the accused/petitioner is charged, does not attract the prohibitory clause of section 497 CrPC. Moreover, the occurrence has allegedly taken place on a public road but no effort has been made to associate any witness from the public with the process of search or recovery. In addition, the FSL report is yet awaited to show the nature of the substance recovered. Accused/petitioner, after his arrest, has gone through the process of investigation but he has neither confessed nor admitted his guilt.

6. Hence, in view of what is discussed above, bail petition in hand stands 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 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: 24.10.2024



(Signature)
24/10/2024
(SYED OBAIDULLAH SHAH)
Sessions Judge/Judge Special Court,
Orakzai at Baber Mela