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**In the court of Abdul Basit**  
**Addl. Sessions Judge-II, Orakzai**

The State versus Ghulam Ahmed etc.

Order...07

Accused on bail along with counsel are present.

07.11.2024

Sr.PP for the State present.

Through this order I shall decide the application filed by prosecution for the permission to withdraw from the prosecution of case against accused Ghulam Ahmed son of Pir Ahmed r/o Koko Dara, District Orakzai and Attaullah son of Nasarullah r/o Qaum Kamar Khel, Tappa Khwaidad Khel, District Khyber u/s 4 C (II) read with 5 (B) of Prosecution Act, 2005, read with section 494 Cr.PC charged vide case FIR no. 39 dated: 01.07.2024 u/s 9-D CNSA registered in Kurez Boya police station, District Orakzai.

Concise facts of the case are that complainant along with other police officials during search and strike operation have visited Ghulam Ahmed alias Ghulam Haji Godar Teerah Hotel, where, during search of the room, they recovered 05 sachets wrapped in plastic bag and the other charas covered in yellow scotch tape total weighing 400 grams charas from water cooler; that 10 grams charas was separated and packed in parcel no. 01 for chemical examination and the balance charas 390 grams charas was packed in parcel no. 02; that owner of the hotel disclosed his name as Ghulam Ahmed, who claimed the recovered charas as his ownership; that upon search of a shop attached to the hotel, they have recovered 02 white color sachets of charas of 110 grams from showcase of the shop; that 10 grams of charas was separated and packed in parcel no. 3 for FSL and balance 100 grams charas was packed in parcel no. 4; that digital scale was sealed into parcel no. 5; that videography of the proceedings was made and converted into USB, which was sealed in parcel no .6; that shopkeeper disclosed his name as Attaullah; that accused/petitioners were arrested on the spot; hence, the FIR.

Arguments heard and record perused.

Perusal of record reveals that accused have been allegedly charged for recovery of chars from the hotel of Ghulam Ahmed and from the shop of Attaullah, but as per available record there is no direct or indirect evidence on record that could connect them with commission of offence. Nothing has

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07/11/2024  
**Abdul Basit**  
Addl. District & Sessions Judge-II  
Orakzai, at Baber Mela,  
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been recovered from their direct possession. More so, during investigation the local police has not recorded statement of any independent person in respect of allegations leveled against them. It is abundantly clear from the record that besides the bald allegations leveled by complainant in his report no direct, indirect or circumstantial evidence is available on file against accused regarding his involvement in the commission of offence.

Besides, application for discharge of accused has also been submitted by District Public Prosecutor, Orakzai and the reasons mentioned there are sufficient to discharge/acquit him from the charges leveled against them.

Importantly, the FSL report has not been received so far despite the fact that the occurrence has taken place on 01.07.2024 and the challan was put-in-court for trial on 09.09.2024, which clearly indicates that prosecution has no evidence to produce before the court; therefore, in view of existence of so many lacunae in prosecution story, this is held that prosecution case is full of doubts & surmises, benefit of which is undoubtedly to be extended to the accused in the wake of settled law, which in no way suggests the conviction of accused, thus, leading of further evidence would be wastage of time of court and accused as the end result is acquittal, hence, I hereby acquit the accused from the charge leveled against them under section 9-D of the KP Control of Narcotic Substances Act, 2019. Accused are on bail; therefore, their bail bonds stand cancelled and sureties thereof stand absolved from the liability of their production.

Case property be disposed of in accordance with law.

File of this Court be consigned to District Record Room after its necessary completion and compilation with in the span allowed for; whereas, record be returned.

**Announced**  
07.11.2024

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