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IN THE COURT OF ADDITIONAL SESSIONS JUDGE-I, ORAKZAI AT BABER MELA

Case Title: STATE VS ABDULLAH

Case no. 8/JC, FIR no. 94, Dated 29.08.2023, u/s 9DCNSA/ 324/353/148/149 PPC

Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
Order No. 03	11.11.2024	<p>Sr.PP, Abul Qasim for the State present. Juvenile accused, Abdullah on bail not present; however, Learned DPP for the State submitted application for discharge of the accused U/S 4C(II), 5(b) of the Prosecution Act, 2005 read with section 494 Cr. PC.</p> <p>Brief facts of the case are that that complainant Nasir Ahmad SHO sent a Murasila through constable Muhammad Irshad no. 336 to the effect that the complainant acting upon the spy information to the effect that some persons that one, Hidayat s/o Jumma Khan, Abdullah s/o Hashim Ali Khan r/o Utman Khel Melo sar, Majeed s/o Ashna Khan r/o Section Feroz Khel, Sufyan s/o Unknown and Hazrat s/o Arif r/o Section Stori Khel, Tarkho Sam are having plastic sacks on their shoulder containing chars and they are their way to smuggled the same through Mero Dara towards Bara District Khyber. On the said information, the complainant along with constables, Muhammad Irshad no. 336, Manzoor Ali no. 424, Alam Jan no. 1395, Wajid Ullah no. 320 in the officially uniform wherein helmet and jackets duly armed with weapons reached to the place of occurrence and laid barricade there. After some time the said five persons/accused appeared while having plastic sacks on their shoulders, when they reached near the police party, the police warned them in loud voice to stop, on which they throw their plastic sacks and they were duly armed with firearms decamped towards the mountains. The accused made firing with intention to kill at the police party when they were busy in collecting the plastic sacks left by the accused, the police also made firing at them in self-defense. On the spot, the local police recovered five sacks. Upon the checking the said sacks, one plastic sack recovered from the place of presence of accused Hidayat was checked and 20 packets of chars, wrapped with yellow colour scotch tape were recovered. On the weighing the same through digital scale the same were found to be 20000 grams, each packet was 1000/1000 grams. 10/10 grams from each packet were separated through sharp object for sending the same to FSL and sealed the same into parcels no. 1 to 20. The remaining 19800 grams were sealed into parcel no. 21. From the point of presence of accused Abdullah same quantity of chars was recovered and for purpose of chemical analysis 10/10 grams were separated from the all the 20 packets of chars which were sealed into parcels no. 22 to 41 and the remaining 1980 grams was sealed into parcel no. 42. similarly, the</p>

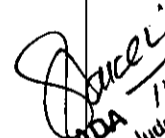
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Bakht Zada
BAKHT ZADA
Addl. District & Sessions Judge-1,
Orakzai at Hangu

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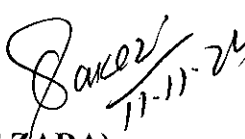
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<p>Order No. 03 Continue...</p>	<p>11.11.2024</p>	<p>same quantity mentioned above was recovered from the place of presence of accused Majeed and specimen separated for chemical analysis were sealed into parcels no. 43 to 62 and the remaining 19800 was sealed in parcel no. 63. from the place of presence of accused Sufiyan the same quantity of chars was mentioned above was recovered and from each packet 10/10 grams were separated for chemical analysis and sealed the same into parcels no. 64 to 83 the remaining 20 packets each containing 990 /990 grams chars were sealed int parcel no. 84. The specimen extracted from the contrabands chars i.e., 20 packets each consisted of 1000 grams, recovered from the place of presence of accused Hazrat were sealed into parcels no. 85 to 104 and the remaining quantity of chars 19800 grams were sealed into parcel no. 105. The empty bags/plastic sacks weighing 560 grams were sealed into parcel no. 106, 1/1 sample stamp having of monogram of "NA" were sealed in each parcel and 3/3 stamps of the same monogram were affixed upon al the parcels. All the chars were taken into possession vide recovery memo. The accused were yet to be arrested. Murasila and recovery memo were sent through constable Muhammad Irshad no. 336 to police station for registration of FIR and hence, the instant case was registered.</p> <p>(2). At the completion of investigation, supplementary challan against the juvenile accused namely Abdullah s/o Ashmal Khan was submitted. It is mentioned in the challan that the accused has neither confesses guilt before the police nor before the court despite of obtaining his two days physical custody in favor of police. The prosecution has submitted the instant challan with application for discharged of the accused u/s under section 4C (II), 5(b) of the prosecution Act, 2005 read with section 494 Cr. PC. It is mentioned in the application that sufficient evidence is not available on the case file to connect the accused with the commission of offence. The accused was not arrested at the spot nor any recovery has been affected from his personal possession and even after his arrest no sufficient evidence has been collected despite of obtaining two days physical of accused in favour of police and that if the accused is tried in the instant case on bases of available record there is no likelihood to bring home the charges against him.</p> <p>(3). Arguments of the learned Dy. PP for the state heard and with the help of assistance put forward by him, the available record perused. The perusal of available record shows that the complainant has neither disclosed his source of information nor this fact has been</p>
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BAKHT ZADA 11.11.24
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<p>Order No. 03 Continue...</p>	<p>11.11.2024</p>	<p>disclosed by the police that how they recognized the accused by their names despite of the fact that no one was arrested at the spot, furthermore no particulars of figure or sketch of the accused has been brought on the case file. A single injury has not been sustained by any of the police officials despite of the facts that allegedly all the five accused have made firing from above the mountain at the police party therefore, the question of applicability of section 324 PPC is ruled out. It is also not clarified by the police that which sack has left behind by whom/ which accused. Despite being in police custody, the accused has neither confessed his guilt nor his presence at the place of occurrence is proved through any corroborative evidence brought in the case file by the investigation officer. there is nothing on record to connect the accused facing trial with commission of offence and there is no likelihood his convection even its the statement of all the PWs mentioned in the challan are recorded. I, therefore the accept the instant application of the prosecution submitted u/s U/S 4 C(II), 5(b) of the Prosecution Act, 2005 read with section 494 Cr. PC and discharged the accused named above from the charges leveled against him.</p> <p>(6). Requisitioned record be sent back to quarter concerned. File of this court be consigned to record room after its necessary completion and compilation.</p> <p><u>Order Announced</u> Dated: 11.11.2024</p> <p style="text-align: right;"> (BAKHT ZADA) Addl: Sessions Judge-I, Orakzai at Baber Mela</p>
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