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BA No. 4/4 of 2025
MUHAMMAD SAQIB VS THE STATE
FIR No. 29, Dated 06.05.2024, u/s 9 (d) CNSA and
324/353/148/149 PPC, Police Station Kalaya

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

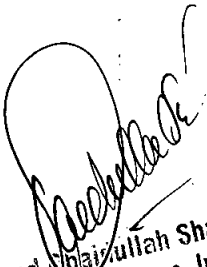
Bail Application No. : 4/4 of 2025
Date of Institution : 18.01.2025
Date of Decision : 20.01.2025

MUHAMMAD SAQIB VS THE STATE

ORDER

DPP, Umar Niaz for the State and Sana Ullah Khan Advocate for accused/petitioner present. Record received. Arguments heard and record gone through.

2. Accused/petitioner, **Muhammad Saqib** s/o Niqab Shah seeks his post-arrest bail in case FIR No. 29, Dated 06.05.2024, u/s 9 (d) CNSA and 324/353/148/149 PPC of Police Station Kalaya, wherein, as per contents of FIR, the complainant, Shal Muhammad SHO acting on information regarding smuggling of narcotics by the present accused/petitioner along with co-accused, laid a picket on the spot where at about 0840 hours the accused/petitioner and co-accused carrying plastic bags on their shoulders via mountain, on seeing the police party opened firing on them. In retaliation, the police party also made firing at them, but the accused/petitioner along with co-accused, abandoning the bags, made their escape good from


Syed Obaidullah Shah
District & Sessions Judge
Orakzai at Baber Mela

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the spot. The firing made by accused Hakeem caused injury to Constable Abdul Sattar. The complainant recovered 30 packets of chars from the respective bags of each of the accused including the present accused/petitioner. Hence, the present FIR.

3. Learned counsel for the accused/petitioner argued that the accused/petitioner has falsely been implicated in the instant case to scot-free the actual culprit, that the recovery has not been made from personal possession of the accused/petitioner.

4. On the other hand, learned DPP for the state put forward his arguments that the accused/petitioner is directly charged in the FIR for an offence which carries capital punishment.

5. In the light of 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 offence for which the accused/petitioner is charged, attracts the prohibitory clause of section 497 CrPC; however, the recovery has been not affected from personal possession of the accused/petitioner. It is astonishing to note that how the police have identified the position of each accused vis-a-vis their abandoned bags. Moreover,


Syed Qanduzah Shah
District Sessions Judge
Orakzai at Baber Mela

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the accused/petitioner, after his arrest, has gone through the process of investigation but he has neither confessed nor admitted his guilt. Above all, the co-accused with similar role has been released on bail; therefore, the present accused/petitioner is also entitled to the concession of bail on the basis of rule of consistency.

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. 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.
8. Copy of this order be placed on judicial/police file.
9. This order is tentative in nature and would have no effect upon the trial of the accused/petitioner.

Dated: 20.01.2025



Syed Obaidullah Shah
20/01/2025
(SYED OBAIDULLAH SHAH)
Sessions Judge/Judge Special Court,
Orakzai at Baber Mela