

HIDAYAT VS STATE

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FIR no. 94 dated 28.09.2023, u/s 9(d) CNSA/324/353/148/149 PPC,  
PS Kalaya.

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

Bail Application No : 24/04 of 2025  
Date of Institution : 06.02.2025  
Date of Decision : 08.02.2025

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**ORDER**

08.02.2025

Sr.PP, Abul Qasim for the State present.

Accused/petitioner was present through counsel.

Record received. Arguments already head.

(2). Accused/petitioner, Hidayat s/o Jumma Khan r/o caste Utman Khel District, Orakzai is seeking his post arrest bail in case FIR no. 94, dated 28.09.2023 u/s 9(d)CNSA/324/353/148/149 PPC of police station Kalaya, District Orakzai.

(3). 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 namely, (1) Hidayat s/o Jumma Khan, (2) Abdullah s/o Hashim Ali Khan r/o Utman Khel Melo sar, (3) Majeed s/o Ashna Khan r/o Section Feroz Khel, (4) Sufyan s/o Unknown and (5) Hazrat s/o Arif r/o Section Stori Khel, Tarkho Sam are having plastic sacks on their shoulder containing chars and they are on their way to smuggle the same through Mero Dara towards Bara, District Khyber road. On the

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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 official uniform wearing 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 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 threw their plastic sacks and decamped, from the spot towards mountain, duly armed with firearms. 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 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 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

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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 were sealed into parcel no. 42. Similarly, the 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 contraband 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 all 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



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for registration of FIR and hence, the instant case was registered.

- (4). Arguments heard and available record perused, which shows that the present accused/petitioner is although directly charged in the FIR. The recovery of Chars was shown to have been allegedly effected from the sack thrown by the accused/petitioner, but neither the accused/petitioner has been arrested on the spot nor any incriminating material has been recovered from his personal possession. As per available record, the accused/petitioner has neither made confession, nor does he has any previous criminal history of his involvement in such like cases. There is no sketch of accused/petitioner brought on case file. The police have not disclosed that how did they have recognized accused/petitioner by his name despite of the fact that no one was arrested on the spot, furthermore, the allocation of points in the site plan to all the five accused by name is also astonishing in absence of any pointation from someone, who already knew them. No injury has been received by any police official, therefore, the applicability of section 324 PPC is yet to be seen at the time of framing of charge. It is also doubtful that how the police verified that which sack is left behind by whom. Previously co-accused Abdullah with same role has already been released on bail vide order dated 14.06.2024 of my learned predecessor in



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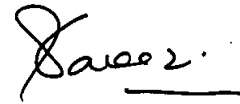
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office and therefore the principle of consistency is also there.

All of the above facts makes the case of the accused/petitioner is one of further inquiry. I, therefore accept the instant bail application of the accused/petitioner. He be released subject to furnishing bail bonds in the sum of Rs. 100,000/- with two sureties each, each in the like amount to the satisfaction of this court/MOD concerned. The 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 is returned to the quarter concerned and file of this court be consigned to record room after its necessary completion and compilation.

**Announced**  
08.02.2025



**BAKHT ZADA**  
Additional Sessions Judge-I, Orakzai  
at Baber Mela