

ORDER-04
03-04-2019

Present:

Abid Ali Orakzai Advocate for the accused/petitioner

APP Amir Shah for State

The accused/petitioner **Afzal Amin alias Fazal Amin** s/o Hashim Khan; caste Zakakhel; r/o Teerah (Painda, Landi Kotal, Khyber District) - who was confined in jail in a narcotics case, u/s **9 (c) CNSA**, by erstwhile Political Administration of Orakzai Agency, is seeking post arrest bail through the instant bail petition.

The allegation against the accused/petitioner, as revealed from the record of the case are; that he is a 'Hashish smuggler' and that, on 27-07-2018, he, alongwith another co-accused, was apprehended by 235 Wing of Orakzai Scouts at Mishti Mela, with 02 bags (weighing approx 25 kg) of Hash (sic).

Arguments heard and record perused; tentative assessment of which shows that:

1. The accused/petitioner was subsequently handed over to the Political Administration without the case property (alleged narcotics).
2. There is nothing on record to show proper and safe custody of the allegedly recovered narcotics. No FSL report is available on record; neither any document is available to show that any samples have so far been sent or deposited in the FSL.
3. No name or statement of the seizing officer or any witness is available on record.

JAMAL SHAH MAHSUD
Addl: District & Sessions Judge-4
Orakzai at Hangu

4. The alleged confession made by accused/petitioner, before a Tehsildar, is prima facie not admissible in law. 4

In these circumstances the accused/petitioner has made out a case of further inquiry into his guilt for the purpose of grant of bail. Resultantly, instant petition is **allowed** and accused/petitioner Afzal Amin is directed to be released on **post arrest bail**, subject to furnishing of bail bonds in the sum of **Rs. 100,000**, by two local and reliable sureties - each in the like amount, to the satisfaction this court. Let a copy of this order be placed on record. Let this file is to be consigned to Record Room of District Courts Hangu after its compilation.

Announced
03-04-2019

JAMAL SHAH MAHSOOD
ASJ-I/Judge Special Court, Orakzai (at Hangu)

JAMAL SHAH MAHSOOD
Sd/- District & Sessions Judge-I,
Orakzai at Hangu