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BA No. 12/BA of 2019

ORDER-03  
08-04-2019

**Present:**

Sanaullah Khan Advocate for the accused/petitioner  
APP Amir Shah for State

The accused/petitioner **Teh sil Khan** s/o Mir Ajab Khan; r/o Khwaja Qamarkhel, Shamsherkhel, Kokodara, Lower Orakzai - who was confined in jail in narcotics case, u/s **9 (c) CNSA**, by erstwhile Political Administration of Orakzai Agency (in case Report No. 3236/APA/L dated 02-10-2017), 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 'Hash Carrier' and that, on 02-10-2017, he was apprehended by 232 Wing of Orakzai Scouts at Chamanjana Check post (Lower Orakzai) with 170.1 kg of Charas.

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

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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 Tehsil Khan is directed to be released on **post arrest bail**, subject to furnishing of bail bonds in the sum of **Rs. 100,000**, from 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**  
**08-04-2019**

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

**JAMAL SHAH MAHSUD**  
**Addl: District & Sessions Judge-I,**  
**Orakzai at Hangu**