

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

CR. MISC. APPLICATION NO. : 3/4 OF 2024
DATE OF INSTITUTION : 14.11.2024
DATE OF DECISION : 19.11.2024

FAZAL MALIK S/O RIJAT KHAN, R/O CASTE R/O ZAKHA KHEL,
LANDI KOTAL, DISTRICT KHYBER
..... (PETITIONER)

-VERSUS-

STATE THROUGH SHO POLICE STATION KALAYA

..... (RESPONDENT)

Present : Mr. Khursheed Ali Advocate for petitioner.
: Sr. PP Abul Qasim for the State.

FIR No. 20
U/S: 9(d)CNSA

Dated: 30.03.2024
Police Station: Kalaya

ORDER:
19.11.2024

Sr. PP Abdul Qasim for the State present. Petitioner

Fazal malik along with his counsel Mr. Khursheed Alam

Advocate present. Arguments heard and record gone through.

- (2). The petitioner Fazal Malik s/o Rijat Khan r/o Zakha Khel, Landi Kotal, District Khyber is seeking Supardari of his motorcycle bearing Registration no. FP 1539/Peshawar, Engine no. US70194399, Chassis no. US-70194399, modal 2012 CD-70, which is in the custody of local police of PS Kalaya in case FIR no. 20 dated 30.03.2024 registered u/s 9(d)CNSA.

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- (3). Summarized facts of the case, according to FIR are that the local police had recovered 5000 grams of chars from the possession/lap of the accused sitting behind the driver of the

motorcycle. Case against the present/petitioner (driver) namely, Fazal Malik and back seat rider namely, Sumar Khel s/o Wash Khel was registered and the motorcycle was seized by the police.

(4). The present petitioner has filed the instant petitioner, claiming to be the owner of the motorcycle, that he was on his way to his village and give lift to the accused, Sumar Khel on his motorcycle. The petitioner claims that he was not in knowledge of the alleged illegal activity allegedly being committed in the garb of lift. The petitioner produced original book of the motorcycle along with sale deed of the motorcycle. Counsel for the petitioner argued that parking of motorcycle in question, unattended in the police station will serve no purpose. He prayed for return of the same.

(5). Argument heard and record perused. Which shows the present/petitioner is in possession of the original registration book of the motorcycle in question and sale deed in his favor. (copy placed on file).

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(6). The petitioner although nominated in the FIR, but nothing has been recovered from his personal possession which would establish that he had knowledge about any illegal activity taking place in the motorcycle.

(7). There is no secret cavity in the motorcycle in question and the knowledge about the presence of the narcotics with the other passengers is yet to be determined. There is no rival

claimant and no useful would be served by keeping the motorcycle in question in PS for indefinite period.

(8) In these circumstances stated above, the petitioner is deemed entitled to the temporary custody of the motorcycle on Superdari.

(9) Resultantly, the instant petition is allowed and it is hereby directed that the above-mentioned motorcycle bearing Registration be handed over to be petitioner, Fazal Malik subject to furnishing of bond in the sum of Rs. 150000/- with two sureties each in like amount to the satisfaction of SHO PS concerned.

(10). The petitioner will bound to produce the motorcycle before any court of law or investigating officer as and when required.

(11) Copy of the application be placed on the original case file while file of this court be consigned to record room.

Announced.

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Baber Mela