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MALIK ZADA VS STATE

FIR no. 64, dated 16.11.2024, u/s 9(d) CNSA, PS Kurez Boya.

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

Bail Application No : 22/04 of 2024
Date of Institution : 22.11.2024
Date of Decision : 27.11.2024

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ORDER

27.11.2024

Sr.PP, Abul Qasim for the State present.

Accused/petitioner through counsel Mr. Abid Ali
Advocate present.

(2). Accused/petitioner, Malik Zada s/o Parsali Gul is seeking his post arrest bail in case FIR no. 64, dated 16.04.2024 u/s 9(d)CNSA of police station Kurez Boya, District Orakzai.

(3). Facts of the case are that complainant Amir Khan SHO PS PS Kurez Boya, sent a Murasila through constable Bakar Ali no. 592 wherein it is alleged that on 16.11.2024, 0900 hours, he along with constable Junaid Khan no. 2204, Bakar Ali no. 592 duly armed in official vehicle under the custody of driver Farhad Ali no. 562 were present on the main road near Ghodz Dara for naka bandi, meanwhile at the above time and place a young chap having black and red bag in his right hand was stopped on suspicion, during his body search nothing incriminating was recovered. On checking the bag 10 packets of chars wrapped with yellow solution tapa were recovered which were weighed through

Saker
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digital scale and each packet came out to be 1000/1000 grams and the total chars 10000 grams. 10 grams of each packet was separated for the purpose of FSL and sealed the same into the parcels no. 1 to 10 while the remaining 9900 grams chars along with bag were sealed into parcel no. 11. The recovery proceedings were filmed through mobile of driver Farhad Ali which was converted into USB. The USB was sealed into parcel no. 12. One monogram of "HK" was sealed inside each parcel and three stamps of monograms of "HK" were affixed on the all the parcels. The accused disclosed his name as Malik Zada s/o Parsali Gul r/o Casts Feroz Khel, Meerbak. He was arrested at the spot. Murasila was sent to PS for registration of FIR.

- (4). Arguments heard and available record perused, contents of report though provides that accused/petitioner has been allegedly arrested while transporting 10,000 grams of Chars while walking through the naka bandi. The perusal of case file shows that despite laps of about more than 10 days, the FSL report has not been received so as to determine that whether the alleged recovered contrabands was actually the Chars or otherwise, which makes it a case of further inquiry. Though there is no mandatory provision in such like cases to associated private witnesses, however, there association is also not expressly barred in cases, where there is availability of the public on the

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spot while the sit plan shows that the occurrence has taken place on the main Anjani to Bara Road which is a public place, therefore the local police is supposed to associate private witnesses but they did not. according to card of arrest and school documents the accused/petitioner is under age and his date of birth as per school certificate is 05.04.2010 which is less than 15 years, who also deserves his release on bail being a juvenile. Besides, his school certificate also provided and refusal of bail to him being juvenile and student would stake his future. As per site plan, the local police had allegedly laid barricade on the straight Anjani to Bara Road and the accused being pedestrian could easily avoid the same after noticing the said barricade from considerable distance, but this is strange the accused/petitioner having conscious of fact of carrying huge quantity of the Chars headed towards them. As per available record accused/petitioner has no history of his previous involvement in such like cases and keeping him behind the bars would serve no useful purpose.

Done
27.11.24
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Orakzai at Harigu

- (5). So, in the circumstances, the bail application is accepted and accused/petitioner is admitted to bail provided that he furnishes bail bonds in the sum of Rs. Rs. 100,000/- with two sureties each, each in the like amount to the satisfaction of court. The sureties must be local, reliable and men of means. My order is tentative in nature and shall have no bearings on merits on the

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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
22.11.2024

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Additional Sessions Judge-I, Orakzai
at Baber Mela