

IN THE COURT OF SYED OBAIDULLAH SHAH
SESSIONS JUDGE/JUDGE SPECIAL COURT,
ORAKZAI AT BABER MELA


Bail Application No. : 91/4 of 2024
Date of Institution : 04.12.2024
Date of Decision : 05.12.2024

ARSHID VS THE STATE

ORDER

DPP, Umar Niaz for the State and Sana Ullah Khan Advocate for accused/petitioner present.
Record received. Arguments heard and record gone through.

2. Accused/petitioner, **Arshid** s/o Hanif Gul seeks his post-arrest bail in case FIR No. 114, Dated 29.11.2024, u/s 9 (d) of the Khyber Pakhtunkhwa CNSA, 2019 of Police Station Kalaya, wherein as per contents of FIR, the complainant, Shal Muhammad SHO along with other police personnel during routine patrolling laid a picket on the spot where at about 1300 hours a red colour CD-70 motorcycle without any registration number on way from Mishti towards the picket was stopped. The rider was disembarked from the motorcycle but nothing incriminating was recovered during his personal search. The search of the motorcycle led the complainant to the recovery of 02 packets of chars wrapped with yellow colour scotch tape, each

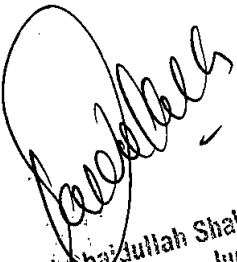

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weighing 1000 grams, making a total of 2000 grams from beneath the seat of the motorcycle. Hence, the present FIR.

3. Learned counsel for defense argued that the accused/petitioner has falsely been implicated in the instant case to scot-free the actual culprit, that the alleged occurrence has taken place on 29.11.2024 but the FSL report is not available on file, that there is no previous history of the accused/petitioner in such like cases.

4. Learned DPP for the state put forward his arguments that the accused/petitioner was arrested on the spot and more than 01 kilogram of chars has been recovered from his possession.

5. In the light of arguments advanced by the DPP and counsel for the accused/petitioner, record gone through which shows that though the accused/petitioner is directly nominated in the FIR and the offence for which the accused/petitioner is charged, attracts the prohibitory clause of section 497 CrPC; however, the occurrence has allegedly taken place during broad daylight but no effort has been made to associate any witness from the public with the process of search or recovery. Moreover, the FSL report is yet awaited to show that whether the recovered substance was actually chars or


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otherwise. Accused/petitioner, after his arrest, has gone through the process of investigation but he has neither confessed nor admitted his guilt.

6. Hence, in view of what is discussed above, bail petition in hand stands accepted and the accused/petitioner is admitted to the concession of bail provided he submits a bail bond in the sum of Rs. 100,000/- with two sureties each in the like amount to the satisfaction of this court. The sureties must be local, reliable and men of means.

7. Order announced. File of this court be consigned to record room after its necessary completion and compilation. Copy of this order be placed on police/judicial file.

8. This order is tentative in nature and would have no effect upon the trial of the accused/petitioner.

Dated: 05.12.2023



(SYED OBAIDULLAH SHAH)
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