

ASIM ALI VS STATE

FIR no. 12, dated 11.03.2025, 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 : 34/04 of 2025
Date of Institution : 14.03.2025
Date of Decision : 17.03.2025

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ORDER

17.03.2025

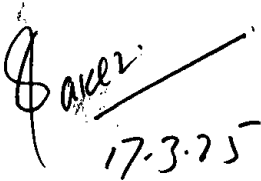
Sr. PP, Abul Qasim for the State present.

Accused/petitioner present through Mr. Khursheed Alam

Advocate. Record received. Arguments head.

(2). Accused/petitioner, Namely Asim Ali s/o Muhammad Islam r/o Caste Bangash, Marai, District, Kohat is seeking his post arrest bail in case FIR no. 12, dated 11.03.2024 u/s 9(d)CNSA of police station Kurez Boya, District Orakzai.

(3). Brief facts of the case are that that complainant Mujahid Khan SHO sent Murasila, card of arrest and recovery memo to the police station through constable Rahim Ali No. 492, wherein it is alleged that on the eventful night i.e. 11.03.2025 at 1930 hours, he along with Constables Rahim Ali No. 492, Baqir Ali No. 592 duly uniform were present in the area on gasht in the official vehicle driven by driver Shehzad Ali No. 675, in the meanwhile two youngsters were seen, while walking in suspicious condition and they started running when the saw the police mobile. They were chased and overpowered after covering some distance. One of the youngsters disclosed his name as Qamer Abbas s/o Daftar Khan caste Bangash. During his body search two packets of Chars, wrapped in yellow scotch tape were recovered from the fold of his trouser. The other youngster/present


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accused/petitioner disclosed his name as Asim Ali s/o Muhammad Islam and during his body search also two packets of Chars, wrapped in yellow scotch tape were recovered from the fold of his trouser. From the recovered Chars 10 grams from each packet were separated through sharp object for the purpose of sending the same to FSL. The samples so collected from the recovered contraband of accused Qamer Abbas were sealed into parcels No. 1 and 2 and that recovered from the possession of accused Asim Ali (present accused/petitioner) were sealed into parcels No. 3 and 4. The remaining contraband Chars of co-accused Qamer Abbas weighing 1980 grams were sealed into parcel No. 5 and similarly, that of accused Asim Ali were sealed into parcel no 6. The driver prepared video of the recovery process through cellphone in the light of the headlights of the vehicle. The accused were arrested by preparing their separate cards of arrest. The above-mentioned FIR was registered and hence, the instant bail petition.

- (4). Arguments heard and available record perused, which shows that although association of private witnesses at the time of recovery is not mandatory under the law, but still the occurrence has taken on the main Kurez to Kacha Pakha Road, whereupon the traffic flows 24/7, but still no private witness has been associated. The alleged recovery of 02-Kg of contraband Chars from the fold of his trouser is a matter of further inquiry, because having two Kg of contraband Chars in the fold of trouser is easily visible and a person of prudent mind will not take such a risk to smuggle the contraband in a such manner while going by walk. The FSL report of the alleged recovered contraband

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has not yet received. There is no admission or confession recorded by accused before the court of Judicial Magistrate despite of spending 48 hours in the police custody, furthermore the co-accused with the similar role has already been released on bail. All these facts and circumstance makes the accused/petitioner entitled for his release on bail and consequently the instant bail application is accepted. The accused be released on bail subject to furnishing bail bonds of Rupee of 100,000/- with two sureties each, each in the like amount to the satisfaction. The sureties must be local, reliable and men of means. My order is tentative in nature and shall have no bearings on merits of the case.

- (5). 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
17.03.2025


BAKHT ZADA
Additional Sessions Judge-I, Orakzai
at Baber Mela