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MUHAMMAD YASEEN VS STATE

FIR no. 17, dated 01.05.2025, 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 : 52/04 of 2025
Date of Institution : 08.05.2025
Date of Decision : 15.05.2025

ORDER

15.05.2025

Sr. PP, Abul Qasim for the State present.

Accused/petitioner through counsel Mr. Sanaullah Khan Advocate present. Record received.

(2). Accused/petitioner, Muhammad Yaseen s/o Jan Muhammad r/o Qoam Aka Khel District Khyber is seeking his post arrest bail in case FIR no. 17, dated 01.05.2025, u/s 9(d) CNSA of police station Kurez Boya, District Orakzai.

(3). Facts of the case are that complainant Mujahid Khan SHO PS Kurez Boya, sent a Murasila through constable Junaid Ali no. 1607 wherein it is alleged that on 01.05.2025, at 1400 hours, he along with constable Junaid Ali no. 1607, Baqir Ali no. 592 duly armed in official vehicle (Pick-up) under the custody of driver Farhad Ali no. 562 were present on the main road near Ghoz Dara for naka bandi, meanwhile two youngsters were stopped in suspicious condition and their body search was carried out, during which 06 packets of Chars, wrapped in yellow scotch tape were recovered from the two white colour waists sewed together and wearing by the accused under his shirt. On weighing

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through digital scale, each packet was found to be 1000/1000 grams. 10/10 grams from each packet were separated and sealed into parcels No. 1, 3,5,7,9 and 11 for sending the same to FSL for chemical analysis. Remaining 06 packets of 990/990 grams were sealed into parcels No. 2,4,6,8,10 and 12. One seal of monogram "MK" was sealed in each parcel and 3/3 stamps of monogram "MK" were affixed on each parcel. Similarly, during body search of the other person 06 packets of Chars during which 06 packets of Chars, wrapped in yellow scotch tape were recovered from the two brown colour waists sewed together and wearing by the accused under his shirt. On weighing through digital scale, each packet was found to be 1000/1000 grams. 10/10 grams from each packet were separated and sealed into parcels No. 13,15,17,19,21 and 23 for sending the same to FSL for chemical analysis. Remaining 06 packets of 990/990 grams were sealed into parcels No. 16,18,20,22 and 24. Two white colour and two brown colour waists were sealed into parcel No. 25. Video of the spot was prepared by constable Junaid Ali No. 1607 through mobile phone, which was converted into USB, which is sealed into parcel No. 26. The accused disclosed their names as Muhammad Yaseen s/o Khan Muhammad and Said Ullah s/o Muhammad Jameel r/o Akha Khel, District Khyber. They were arrested. Recovery memo, card of

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arrest along with Murasila were sent to PS through constable Junaid Ali for registration of FIR.

- (4). Arguments heard and available record perused. The allegations against the present accused/petitioner are that he was arrested while transporting 6000 grams of Chars by walking at the place of occurrence. As per the site plan, the alleged place of occurrence is a straight road and the police mobile can be noticed from a quite long distance while coming towards the pedestrians and particularly when they being in possession of alleged narcotics were extra cautious, but they have not made any attempt to escape from the place of occurrence after noticing the police mobile, which is not according to the circumstances and is thus not appealing to prudent mind. That despite of lapse of 12 days, no FSL report is received so as to determine that whether the alleged contraband was actually the Chars or otherwise which makes the case in hand one of further inquiry. Although, there is no mandatory provision in the KP CNSA, 2018 to associate private witnesses; however, their association is not expressly barred in cases, where there is availability of public on the spot. The site plane shows that the occurrence has taken place on the main road at Ghoz Dara square, which is a public place and the local police were supposed to associate private witnesses, but they did not. According to school record of the accused/petitioner Muhammad Yaseen, his date

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of birth is 5th Feb, 2010, which is less than 15 years and he also deserves his release on bail being a juvenile and refusal of bail to him being juvenile and student will destroy his future.

- (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 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
15.05.2025



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