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STATE VS ZIARAT GUL
FIR No. 02 | Dated: 13.01.2025 | U/S: 9 (d) CNSA |
Police Station: Kalaya

IN THE COURT OF HAQ NAWAZ,
SESSIONS JUDGE/JUDGE SPECIAL COURT, ORAKZAI
(AT BABER MELA)

SPECIAL CASE NO. : 8/3 OF 2025
DATE OF INSTITUTION : 10.03.2025
DATE OF DECISION : 30.06.2025

STATE THROUGH SHAL MUHAMMAD SHO, POLICE STATION
KALAYA

.....(COMPLAINANT)

-VERSUS-

ZIARAT GUL S/O TOR JAN, AGED ABOUT 60 YEARS, CASTE
AKA KHEL, DISTRICT KHYBER

..... (ACCUSED)

Present : Abul Qasim, Senior Public Prosecutor for the State.
: Sana Ullah Khan Advocate, the counsel for accused.

FIR No. 02 **Dated:** 13.01.2025 **U/S:** 9 (d) of the Khyber
Pakhtunkhwa Control of Narcotic Substances Act, 2019
Police Station: Kalaya

JUDGEMENT

30.06.2025

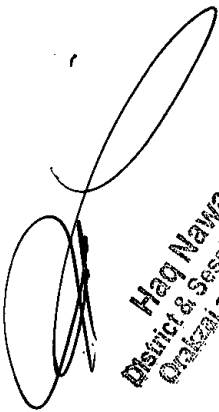
This case was registered against the accused, Ziarat Gul s/o
Tor Jan, aged about 60 years, Caste Aka Khel, District Khyber
vide FIR No. 02, Dated 13.01.2025 at Police Station Kalaya
u/s 9 (d) of the Khyber Pakhtunkhwa CNSA, 2019.

2. According to averments of the FIR, the SHO Police Station
Kalaya along with other police contingents were present on a
picket during surveillance duty in the area on 13.01.2025
when a Parado Jeep of silver colour came there at 1200 hours.
The vehicle was stopped. The person was disembarked from
the vehicle. He revealed his identity as Ziarat Gul s/o Tor Jan.
The complainant opened a secret cavity made inside the tank
of the vehicle through a key which led to the recovery of 30
packets of chars, weighing 500 grams each, making a total of

15,000 grams. The samples of 10 grams each were separated from the packets and sealed into parcels No. 1 to 30. The remaining 14,700 grams of chars were sealed in parcel No. 31. Videography of the occurrence was carried out and sealed into parcel No. 32. The parcels were sealed with the monogram of "SH". The case property was taken into possession by the complainant. The Murasila and other documents were sent to police station; hence, the FIR was registered.

3. After completion of investigation, complete challan was put in Court. The accused was summoned and copies were provided to him under Section 265-C CrPC. The accused was formally charged, he pleaded not guilty and claimed trial. The prosecution produced a total of 05 witnesses. A brief resume of the depositions of the prosecution witnesses is as under;

- I. Constable Ameer Nawaz stood in the witness box as PW-1. He stated that he took the samples of the contraband in parcels No. 1 to 30 and USB in parcel No. 32 to FSL for chemical analysis on 16.01.2025. He handed over the receipt of the parcels to the IO upon his return from FSL.
- II. Muhammad Jameel MHC appeared in the witness box as PW-2. He stated that he incorporated the contents of Murasila into FIR Ex. PA and received duly packed and sealed case property


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from the complainant which was kept in mal khana by him in safe custody by making its entry in Register No. 19 Ex. PW 2/1 and parked the vehicle in the premises of the police station. He also made entries in the daily diaries Ex. PW 2/2 and Ex. PW 2/3 and handed over the test samples to IO for transmitting to the FSL.

III. The complainant, Shal Muhammad SHO, appeared before the Court as PW-3. He stated that he along with Alam Jan HC, Muhammad Irshad and Zeeshan Haider were present on a picket on 13.01.2025 in their official vehicle, driven by the driver Muhammad Ayaz. They stopped a Parado Jeep at about 1200 hours. The complainant disembarked the driver of the vehicle, disclosed his name as Ziarat Gul s/o Tor Jan. The PW-3 recovered 30 packets of chars from a secret cavity made inside the tank of the vehicle, which were wrapped in yellow colour scotch tape. It came out to be 500/500 grams on weighment, making a total of 15,000 grams. The complainant separated 10 grams of chars from each packet for FSL examination which were packed and sealed into parcels No. 1 to 30. The remaining contraband of 14,700 grams was packed and sealed into parcel No. 31. Constable Zeeshan Haider carried out


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videography of the occurrence which was saved in a USB and sealed in parcel No. 32. The complainant put one monogram of "SH" inside each parcel and three monograms each were affixed on all the parcels. The recovery of chars and the vehicle were affected through recovery memo Ex. PC. The complainant issued card of arrest of the accused which is Ex. PW 3/1. He prepared the Murasila Ex. PA/1 and sent it along with other documents to police station through Constable Zeeshan Haider for registration of FIR. He pointed out the place of occurrence to the IO on his arrival to the spot and shown the case property to him along with the accused. Thereafter, he took the case property and the accused to police station and handed over to Moharrir. He later on submitted complete challan Ex. PW 3/2 against the accused after completion of investigation. The PW verified the contents of all the documents prepared by him and submitted that his signatures are correctly affixed on the same.


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Orakzai at Baber Mela

IV. Constable Zeeshan Haider appeared as PW-4. He is marginal witness to the recovery memo Ex. PC vide which the complainant took into possession the recovered chars and the vehicle. He made the

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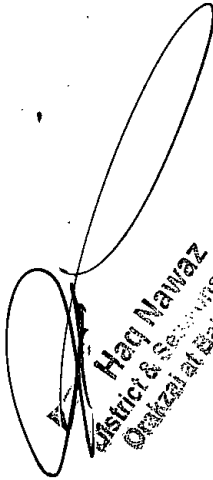
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videography of the occurrence. He verified the contents of recovery memo and submitted that it correctly bears his signature. He further stated that he took the Murasila to police station for registration of FIR.

V. Lastly, Investigating Officer Aftab Hassan was examined as PW-5. He stated that he prepared the site plan Ex. PB on pointation of the complainant during the spot inspection. He recorded the statements of witnesses on the spot. He produced the accused before the Court of Judicial Magistrate vide applications Ex. PW 5/1 and one-day physical custody was granted. He again produced the accused before the Court of Judicial Magistrate vide applications Ex. PW 5/2. He also sent the test samples to FSL along with applications and route permit certificates on 16.01.2025. The FSL result was placed on file by him as Ex. He also drafted applications for verification of the vehicle from ETO and FSL authorities. He submitted the case file to SHO for onward proceedings.


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Orakzai District

4. After completion of prosecution evidence, statement of the accused was recorded u/s 342 Cr.P.C. He claimed innocence; however, he neither wished to be examined on oath nor opted to produce any evidence in defence.

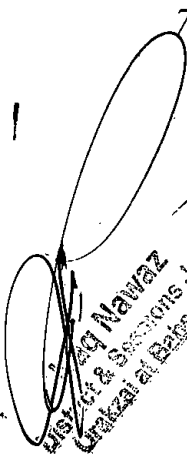
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5. I have heard learned Sr. PP and counsel for the accused.
6. The learned Sr. PP argued that the accused was apprehended with huge quantity of narcotics kept in secret cavity of the vehicle in his direct possession. The prosecution remained successful to establish safe transmission of the case property from the spot to police station and sending samples to FSL from police station through sufficient evidence. The FSL report is in positive. There is no material contradiction in the statements of PWs inspite of sufficient cross examination by the defence counsel. He, therefore, requested for conviction of the accused.

7. On the other hand, the learned counsel for the defence submitted that no official of the nearby Mandra Khel Check-Post was associated with the recovery proceedings. The occurrence was taken place on 13.01.2025 whereas the samples were sent on 16.01.2025. The kind of chars as pukhta or garda is not mentioned in the Murasila. No documents of ownership of the vehicle and driving were recovered from the accused. The Murasila was handed over to PW-2 by the complainant at 1400 hours which is the time of scribing the Murasila. He also pointed out observation of the Court regarding non-availability of videography in the parcel produced before the Court. Similarly, the kind of vehicle used by the PW-2 from the spot to police station and from the police station back to spot was not known to the complainant. He finally submitted that the prosecution case is full of


District & Sessions Judge
Gulistan-e-Ikbal

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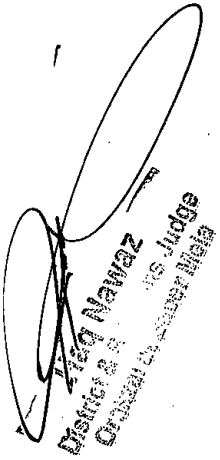
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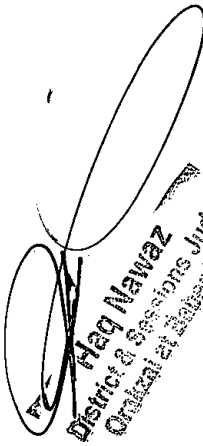
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doubts; therefore, the accused be acquitted of the charges levelled against him.

8. After hearing both the parties and perusal of the record it was found that the occurrence took place on 13.01.2025 at 1200 hours at main road from Headquarter to Kohat near Mandra Khel Check-Post within the jurisdiction of Police Station Kalaya when the complainant intercepted vehicle No. BC-8212/Sindh driven by the accused. The search of the vehicle led to the recovery of 15,000 grams of chars from a secret cavity made in the fuel tank of the vehicle in 30 packets weighing 500 grams each. The recovered contraband was taken into possession vide recovery memo Ex. PC. It was produced before the Court in sealed parcel No. 31 as Ex. P1. The crime vehicle was produced before the Court as Ex. P3. The complainant (PW-3) himself took the case property from the spot to police station and handed it over to Moharrir. This fact was admitted by the Moharrir in his statement before the Court as PW-2. He further deposed that he made entries in this respect in register No. 19 Ex. PW 2/1. He further submitted that the test samples were handed over by him to the IO on 16.01.2025 for transmission to FSL. The Investigation Officer in his statement before the Court as PW-5 deposed that he handed over the test samples in parcels No. 1 to 30 to PW Ameer Nawaz on the same day who took it to FSL. He produced the FSL report before the Court as Ex. PK which disclosed that the samples were chars in "Brown


Ameer Nawaz
District & Sessions Judge
District of Kohat

Solid" shape. The Investigating Officer also produced e-Payment GoS downloaded from the website of Government of Sindh as Mark-A. It discloses the ownership of accused in respect of the crime vehicle. The Parcel Carrier in his statement as PW-1 deposed that the samples were handed over by the IO to him which were taken by him to FSL and deposited the same against proper receipt. Similarly, the marginal witness of recovery memo appeared before the Court as PW-4. He narrated the whole prosecution story in his statement and corroborated the statement of complainant with the exception that he shown his ignorance about the total number of parcels prepared by the Seizing Officer on the spot. He verified the contents of recovery memo and his signature upon the same and submitted that he used a motorcycle of a passerby for his travel to police station from the spot while taking Murasila. The PWs were subjected to lengthy cross examinations by the defence counsel, but no material contradiction could be brought on record to create doubt regarding recovery of the contraband from the crime vehicle in question driven by the accused. Similarly, no material contradiction was pointed out in the statements of PWs regarding safe transmission of the case property from the spot to police station and from the police station to FSL except that all the PWs admit their departure from the spot in official vehicle. However, the PWs in their statements explained the shifting of crime vehicle from the spot to police


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District & Sessions Judge
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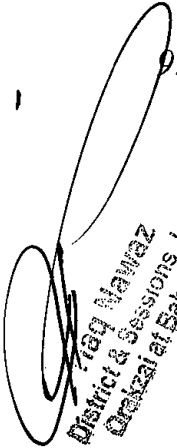
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station by PW Zeeshan Haider. Though parcel No. 32 containing videography of the occurrence in a USB was found empty when it was played during the course of examination of the Seizing Officer. However, he gave full details of the videography in his statement as PW-3 and submitted that the same is available in his cell phone. He was summoned again to play the videography in question before announcement of the judgment, which was observed, in presence of the accused and Sr. PP, containing video of the crime vehicle, accused and the Seizing Officer while taking out some of the packets of the contraband in question from the vehicle.


Testimonies of all the witnesses including the Seizing Officer and the Investigating Officer were consistent with each other on material facts of the case. The Investigating Officer was not questioned about the document of ownership (Mark-A) produced by him which established ownership of the accused in respect of the crime vehicle. The Murasila Ex. PA/1 which was the first written document at the spot showed presence of the marginal witnesses of the recovery memo and seizing officer at the time of occurrence. The prosecution remained successful to prove the chain of circumstances under which the samples along with case property was shifted from the spot to police station, produced before the Investigating Officer, then kept in safe custody and onward transmission to the FSL for chemical analysis. Positive FSL report qua


Faq Nawaz
District & Sessions Judge
District of Bahawalpur

samples further strengthened the prosecution case. The circumstances established that the prosecution had proved the guilt of the accused through cogent and confidence inspiring evidence.

10. In view of above, the accused **Ziarat Gul** s/o Tor Jan, aged about 60 years, Caste Aka Khel, District Khyber is convicted under Section 9 (d) of the Khyber Pakhtunkhwa Control of Narcotic Substance Act, 2019 and sentenced to undergo rigorous imprisonment for life with fine of Rs. 1,000,000/- each. The convict shall suffer simple imprisonment for a period of six months in case of default of payment of fine. The benefit of section 382-B CrPC is extended to the accused.
11. The case property in the shape of narcotics be destroyed after the expiry of period of appeal/revision while the crime vehicle is confiscated to State. File of this Court be consigned to record room after its necessary completion and compilation.


Dated: 30.06.2025


(HAQ NAWAZ)
Sessions Judge/Judge Special Court,
Orakzai at Baber Mela

CERTIFICATE

Certified that this judgement consists of ten (10) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 30.06.2025


(HAQ NAWAZ)
Sessions Judge/Judge Special Court,
Orakzai at Baber Mela