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STATE VS NOOR JAMAL SHAH

FIR No. 93 | Dated: 07.09.2024 | 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. : 21/3 OF 2025  
DATE OF INSTITUTION : 11.12.2024  
DATE OF TRANSFER-IN : 29.05.2025  
DATE OF DECISION : 14.10.2025

STATE THROUGH SHO MUHAMMAD YOUNAS, POLICE STATION  
KALAYA

.....(COMPLAINANT)

-VERSUS-

NOOR JAMAL SHAH KAKA KHEL S/O MUHAMMAD ALI SHAH  
KAKA KHEL, AGED ABOUT 48 YEARS, CASTE KOKI KHEL,  
DISTRICT KHYBER

..... (ACCUSED)

**Present** : Abul Qasim, Senior Public Prosecutor for State.  
: Abid Ali Advocate for accused.

**FIR No. 93**                      **Dated:** 07.09.2024    **U/S:** 9 (d) of the Khyber  
Pakhtunkhwa Control of Narcotic Substances Act, 2019


**Police Station:** Kalaya

JUDGEMENT

14.10.2025

This case was registered against the accused Noor Jamal Shah Kaka Khel s/o Muhammad Ali Shah Kaka Khel, Caste Koki Khel, District Khyber vide FIR No. 93, Dated 07.09.2024 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, while responding to the information of smuggling of narcotics from Anjani to Bara via motorcar, laid a picket on main metaled road near Garag Check-Post on 07.09.2024. A Motorcar Suzuki heading from Anjani arrived there at 1330 hours. The vehicle was stopped and the driver was disembarked. The complainant searched the vehicle and opened a secret cavity made in the CNG Tank inside the


  
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vehicle with a key, which led him to the recovery of 14 packets of chars, wrapped in yellow scotch tape. The complainant weighed each packet, which turned out to be 1000 grams, making a total of 14,000 grams. He separated 10 grams as sample from each packet and sealed it into parcels No. 1 to 14. The remaining 13,860 grams of chars were sealed in parcel No. 15. The parcels were sealed with the monogram of "MY". Videography of the occurrence was carried out through Constable Inshad Ali which was transferred to a USB and sealed in parcel No. 16. 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. He pleaded not guilty and claimed trial. The prosecution produced a total of 06 witnesses. A brief resume of the depositions of the prosecution witnesses is as under;

I. Constable Sajid Ullah stood in the witness box as PW-1. He stated that he took the parcels No. 1 to 14 and parcel No. 16 to FSL for chemical analysis on 10.09.2024. He handed over the receipt of the parcels to the IO upon his return from FSL. His statement was recorded u/s 161 CrPC.

II. AMHC Asmat Ali appeared in the witness box as PW-2. He stated that he incorporated the contents

  
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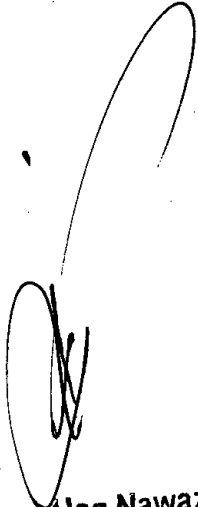
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of Murasila into FIR Ex. PW 2/1 and received the parcels No. 1 to 16 in duly packed and sealed condition from the complainant which was kept by him in safe custody at Malkhana while the motorcar was received by him from the SHO. It was parked in police station's premises, after making its entry in Register No. 19 Ex. PW 2/2. The PW handed over parcel No. 15 to the IO for its production before the Court of Judicial Magistrate on 08.09.2024. He received it back from the IO on the same day and kept it in Malkhana. He also handed over parcels No. 1 to 14 and 16 to the IO for transmitting it to FSL on 10.09.2024. He made entries in the daily diaries which is Ex. PW 2/3.


- III. The complainant, SHO Muhammad Younas, appeared before the Court and recorded his statement as PW-3. He stated that he received information regarding smuggling of huge quantity of narcotics from Anjani to Bara on 07.09.2024. He along with constables Saleem Khan and Murad Khan with driver Inshad Ali laid a picket on main road near Garage Check-Post, upon this information. He stopped a Motorcar Suzuki at 1330 hours and debarked the driver. He recovered 14 packets of chars from a secret cavity

  
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made inside the CNG Tank of the vehicle. He weighed each packet which turned out to be 1000 grams, making a total of 14,000 grams. The complainant separated 10 grams from each packet for FSL examination which were packed and sealed into parcels No. 1 to 14. The remaining 13,860 grams were sealed in parcel No. 15. The videography of the occurrence was carried out through Constable Inshad Ali and it was sealed in parcel No. 16. The complainant affixed monogram of "MY" on the parcels. The recovery was affected through recovery memo Ex. PW 3/1. The accused disclosed his name as Noor Jamal Shah Kaka Khel s/o Muhammad Ali Shah Kaka Khel. The complainant issued his card of arrest which is Ex. PW 3/2. He prepared the Murasila Ex. PW 3/3 and sent it along with other documents to police station through Constable Murad Gul for registration of FIR. He pointed out the place of occurrence to the IO on his arrival to the spot. Thereafter, he took the case property and the accused to police station and handed over to Moharrir. He submitted complete challan Ex. PW 3/4 against the accused after completion of investigation. He verified the contents of all the



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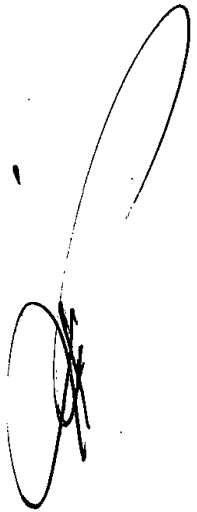
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documents prepared by him and submitted that his signatures are correctly affixed on the same.

IV. The Constable Murad Gul is PW-4. He is marginal witness to the recovery memo Ex. PW 3/1 vide which the complainant took into possession the case property. He narrated the prosecution's story in his statement and 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. His statement was recorded u/s 161 CrPC.

V. Investigating Officer Aftab Hassan was examined as PW-5. He stated that after entrustment of the investigation to him in the instant case, he proceeded to the spot and prepared the site plan Ex. PB on the pointation of complainant. He recorded the statements of witnesses on the spot.

The PW produced the accused before the Court of Judicial Magistrate on 08.09.2025 vide application Ex. PW 5/1 for obtaining his physical custody, as a result 01-day custody was granted. He again produced the accused before the Court of Judicial Magistrate on 09.09.2025 vide application Ex. PW 5/2 for recording his confessional statement. He sent the test samples



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to FSL along with applications Ex. PW 5/3 and Ex. PW 5/4 and route permit certificates Ex. PW 5/5 and Ex. PW 5/6 on 10.09.2024. He received parcel No. 16 from the FSL Carrier and handed it over to Moharrir Sajid Ullah. The FSL result of contraband was placed on file by him which is Ex. PK. He drafted an applications Ex. PW 5/7 and Ex. PW 5/8 for verification of the motorcar bearing No. RU-769ICT/Islamabad from FSL and Excise & Taxation Office. He also placed on file its FSL report which is Ex. PK/1. He submitted the case file to SHO for onward proceedings after completion of investigation.

VI. Driver Inshad Ali appeared before the Court and recorded his statement as PW-6. He stated that he was present with the SHO on 07.09.2024 at 1330 hours on the spot where the SHO recovered contraband from a motorcar. He made videography of the spot proceedings and saved it in a USB which was sealed by the SHO in parcel No. 16. His statement was recorded u/s 161 CrPC.

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. I have heard learned Sr. PP and counsel for the accused.



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5. The learned Sr. PP argued that the accused was apprehended with a vehicle containing huge quantity of narcotics. 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 in respect of the recovered narcotics is in positive. According to which the samples were found to be chars with brown solid physical appearance. There is no material contradiction in the statements of PWs in spite of sufficient cross examination by the defence counsel. He, therefore, requested for conviction of the accused.

6. On the other hand, the learned counsel for the defence submitted that the prosecution has failed miserably to prove their case beyond the shadow of doubt through cogent evidence due to major and material contradictions in the statements of PWs. He referred to the statements of PW-3, PW-4 and PW-6 and submitted that there is no mention of visiting Shiraz Garhi in the statement of PW-6 before the occurrence as stated by the other two witnesses. He also referred to the time of videography in the statement of PW-6 as 1420 hours and submitted that it was carried out after the occurrence. He, therefore, requested for acquittal of the accused from the charges levelled against them.

7. After hearing both the parties and perusal of the record it was found that the occurrence was taken place on 07.09.2024 at



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1330 hours on the main road near Garag Check-Post within the criminal jurisdiction of Police Station Kalaya when vehicle No. RU769/ICT Islamabad was intercepted by the complainant/PW-3. During checking of the vehicle, he found and recovered 14 packets of chars weighing 1000 grams each from the secret cavity of the CNG Tank of the vehicle through recovery memo Ex. PW 3/1. The Seizing Officer as well as the marginal witness of the recovery memo namely Murad Gul appeared before the Court as PW-3 and PW-4. They supported the prosecution's case in their statements and deposed that the occurrence was taken place at the relevant time when they laid a barricade at the place of occurrence. They were subjected to sufficient cross examination, but no material contradiction could be brought on record. The recovered contraband and the vehicle were shifted to police station after separation of samples for FSL and sealing the same in separate parcels and handed over to Moharrir, who appeared before the Court as PW-2. The Moharrir kept the recovered narcotics and its samples in safe custody at Malkhana and parked the vehicle in premises of the police station. The samples were handed over to PW-1 on 10.09.2024 by the IO, who took it to FSL within the prescribed period of time through application to FSL and route permit certificate Ex. PW 5/4 and Ex. PW 5/5. The FSL report was produced by the IO before the Court as Ex. PK during his statement as PW-5. According to the said report,



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the samples were found to be chars with brown solid physical appearance.

8. The only discrepancy, pointed out by the learned defence counsel in the statements of PWs 3, 4 and 6, was in respect of 02 hours stay at Shiraz Garhi before the occurrence after laying barricade at Garag Check-Post as stated by PW-3 and PW-4 whereas the PW-6 stated that they remained at Anjani Bazar for one hour after leaving the police station. The spending of one hour at Anjani Bazar or two hours at Shiraz Garhi was in respect of the time spent by the said PWs before the occurrence on the relevant day. There is no contradiction in their statements with respect to time, place and the mode and manner of the occurrence at 1330 hours on the metaled road at Garag Check-Post on the fateful day.
9. So far, the time of videography as 1420 hours as mentioned by the PW-6, is concerned, it is an admitted fact that the local police are not equipped with modern live cameras for recording videography of the occurrence and the videography is often carried out through their personal mobile sets; therefore, the discrepancies, pointed out in the properties of the videography and time etc., are not fatal for the prosecution's case. Even otherwise, the videography at 1420 hours was carried out before sending the Murasila to police station at 1430 hours.
10. In view of above facts and circumstances, it is concluded that the prosecution remained successful to bring home the

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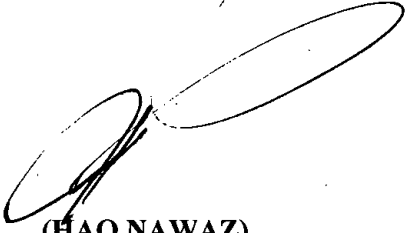
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charges against the accused beyond the shadow of any doubt.

The accused Noor Jamal Shah Kaka Khel s/o Muhammad Ali Shah Kaka Khel, aged about 48 years, Caste Koki Khel, District Khyber is, therefore, convicted u/s 9 (d) of the Khyber Pakhtunkhwa Control of Narcotic Substances Act and sentenced to life imprisonment with payment of fine of Rs. 10 lacs. In default of payment of fine, the convict shall suffer simple imprisonment for a period of 06 months. The benefit of Section 382-B CrPC is extended to the convict. Copy of the judgment is provided to him free of cost. The case property in the shape of narcotics be destroyed after the expiry of period of appeal/revision. File of this Court be consigned to record room after its necessary completion and compilation.

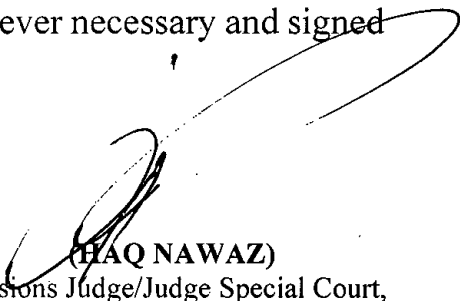
**Announced:**  
14.10.2025

  
(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: 14.10.2025

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