

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

SPECIAL CASE NO. : 4/2 JC OF 2025
DATE OF ORIGINAL INSTITUTION : 09.01.2024
DATE OF TRANSFER-IN : 29.05.2025
DATE OF DECISION : 21.10.2025

STATE THROUGH AFTAB HASSAN ASHO, POLICE STATION
KALAYA

.....(COMPLAINANT)

-VERSUS-

SHAMS UR REHMAN S/O MUHAMMAD YOUSAF, AGED
ABOUT 17 YEARS, CASTE STORI KHEL, R/O TARKHO SAM,
DISTRICT ORAKZAI

..... (ACCUSED)

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

FIR No. 45 **Dated:** 28.04.2023 **U/S:** 9 (d) of the Khyber
Pakhtunkhwa Control of Narcotic Substances Act, 2019

Police Station: Kalaya

JUDGEMENT
21.10.2025

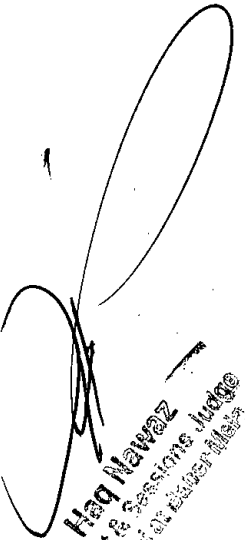
This case was registered against the accused Shams Ur
Rehman s/o Muhammad Yousaf, Caste Stori Khel, r/o Tarkho
Sam, District Orakzai vide FIR No. 45, Dated 28.04.2023 at
Police Station Kalaya u/s 9 (d) of the Khyber Pakhtunkhwa
CNSA, 2019.

2. According to averments of the FIR, the ASHO Police Station
Kalaya along with other police contingents were present on a
picket on 28.04.2023 when a Honda-125 motorcycle of red
colour came there at 1330 hours. The person occupying the
pillion seat was in possession of two bags in his lap. On
spotting the police, the motorcyclists turned back who were

chased by the police. The motorcyclists fell down and the rider of the motorcycle was overpowered while the pillion rider made his escape good from the spot. The complainant recovered 45 packets of chars, wrapped in yellow cotton tape and weighing 1000 grams, making a total of 45,000 grams from one bag. Similarly, he also recovered 5,000 grams of chars garda from the other bag. The samples of 10 grams each were separated from the packets of the large bag and sealed into parcels No. 1 to 45. The remaining 990/990 grams of chars were sealed in parcel No. 46. In the same manner, the samples of 10 grams were separated from the small bag and sealed into parcel No. 47 whereas the remaining 4990 grams of chars were sealed in parcel No. 48. The parcels were sealed with the monogram of "AH". The person disclosed his name as Shams Ur Rehman s/o Muhammad Yousaf. He revealed the identity of the other person as Shahzeb. 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.

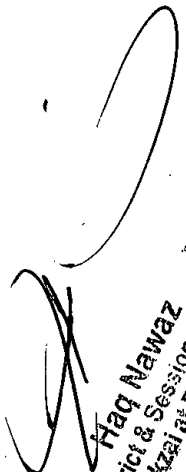
3. After completion of investigation, complete challan was put in Court. The accused was summoned and copies were provided to him under Section 265-C CrPC. The accused was formally charged; he pleaded not guilty and claimed trial. The prosecution produced a total of 08 witnesses. A brief resume of the depositions of the prosecution witnesses is as under;

- I. Constable Gul Karim HC stood in the witness box as PW-1. He stated that he took the samples of the contraband in parcels No. 1 to 45 and 47 and USB in parcel No. 49 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. Nasir Ahmed SHO is PW-2. He submitted juvenile challan Ex. PW 2/1 against the accused facing trial on 04.01.2024.
- III. Muhammad Jameel MHC appeared in the witness box as PW-2. He stated that he incorporated the contents of Murasila into FIR Ex. PW 3/1 and received duly packed and sealed contraband along with the motorcycle from the complainant which was kept in mal khana by him in safe custody by making its entry in Register No. 19 Ex. PW 3/2 and parked the motorcycle in the police station. He also made entries in the daily diaries Ex. PW 3/3 (02 pages) and handed over the test samples to IO for transmitting to the FSL.
- IV. Shal Muhammad SHO stood as PW-4. He submitted interim challan Ex. PW 4/1 and challan u/s 512 CrPC Ex. PW 7/2.
- V. Aftab Ahmad SHO appeared in the witness box as PW-5. He submitted interim challan Ex. PW 5/1.


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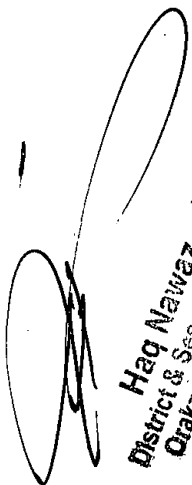
VI. The complainant, Aftab Hassan ASHO, appeared before the Court as PW-6. He stated that he along with Constables Rafi Ullah and Junaid were checking at barricade on Pukhta Road near Shiraz Garhi on 28.04.2023. They stopped a motorcycle boarded by two persons at about 1330 hours. The person seated the back seat was having a large and a small bag in his lap. The motorcyclists, on seeing the police party, tried to turn back, but at some distance, they fell down and the pillion rider made his escape while the rider was arrested. The PW-6 recovered 45 packets of chars from the large bag, which were wrapped in yellow colour cotton tape. It came out to be 1000/1000 grams on weighment, making a total of 45,000 grams. The complainant separated 10 grams of chars from each packet for FSL examination which were packed and sealed into parcels No. 1 to 45. The remaining contraband of grams was packed and sealed into parcel No. 46. He also recovered 5000 grams of chars from the small bag wherefrom the sample of 10 grams was separated and packed and sealed into parcel No. 47. The remaining contraband 4990 grams was sealed into parcel No. 48. Monogram of "AH" was affixed on all the


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parcels. The recovery of chars and the motorcycle were affected through recovery memo Ex. PW 6/1. The complainant issued card of arrest of the accused which is Ex. PW 6/2. Videography of the occurrence was carried out which was saved in a USB and sealed in parcel No. 49. He prepared the Murasila and sent it along with other documents to police station through Constable Junaid Ali 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 while handed over the USB to the IO.

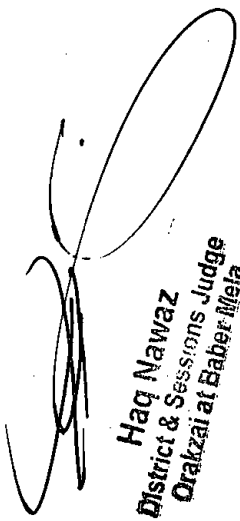


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VII. Junaid Ali appeared as PW-7. He is marginal witness to the recovery memo Ex. PW 6/1 vide which the complainant took into possession the recovered chars and the motorcycle. He verified the contents of recovery memo and submitted that it correctly bears his signature. He further stated that he took the Murasila to police station for registration of FIR.

VIII. Lastly, Investigating Officer Muhammad Hanif was examined as PW-8. 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 received the USB which was sealed by him in parcel No. 49 by affixing monogram of "MH" on the same, in presence of marginal witnesses vide recovery memo Ex. PW 8/1. He produced the accused before the Court of Judicial Magistrate vide applications Ex. PW 8/2 and three-days physical custody was granted. He again produced the accused before the Court of Judicial Magistrate vide applications Ex. PW 8/2. He also sent the test samples to FSL along with application Ex. PW 8/4 and route permit certificate Ex. PW 8/5 on 02.05.2023. He received the parcel of USB and route certificate from the Samples Carrier Gul Karim. The FSL result was placed on file by him as Ex. PK. He also drafted applications for verification of the motorcycle from the concerned authorities. The PW-8 conducted proceedings against the absconding accused Shahzab. He submitted the case file to SHO for onward proceedings.


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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.

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 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 in spite of sufficient cross examination by the defence counsel. He, therefore, requested for conviction of the accused.

On the other hand, the learned counsel for the defence submitted that the prosecution has failed miserably to prove the case through cogent evidence due to major and material contradictions in the statements of PWs. He, therefore, requested for acquittal of the accused from the charges levelled against him.

8. After hearing both the parties and perusal of the record it was found that the occurrence was taken place on 28.04.2023 at 1330 hours at metaled road near Sheeraz Garhi when the present as well as the absconding accused were riding on a motorcycle and intercepted by the local police. They tried to escape; however, the police party chased them and overpowered the present accused who was driving the motorcycle whereas the co-accused made his escape good.

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The absconding accused was having two sacks in his lap. The search of said sacks led to the recovery of 45 packets of chars weighing 1000 grams each packed in one of the sacks whereas 5000 grams chars garda was found in the other sack.

The samples of 10 grams each were separated from the recovered contraband and sealed into parcels No. 1 to 45 and 47. The samples were sent to FSL by the IO through PW-1 on 02.05.2023 beyond the prescribed period of 72 hours.

Secondly, two types of chars i.e., pukhta and garda were recovered, but the FSL report Ex. PK shows a single physical appearance of the samples as "Brown Solid". There are two

recovery memos in respect of the recovered contraband Ex.

PW 6/1 and taking into possession the videography of the occurrence in parcel No. 49, by the IO which is Ex. PW 8/1.

Both the recovery proceedings were witnessed by Constables Junaid Ali and Rafi Ullah. One of the marginal witnesses namely Junaid Ali was produced before the Court as PW-7.

Though in his examination in chief, he reproduced the prosecution's story, but he did not utter a single word about the verification of contents of the recovery memos and his signatures on the same. Rather in his cross examination, he submitted that he had put his signature as marginal witness on only one document in the instant case. Finally, the learned defence counsel requested for playing the video in the USB in parcel No. 49, which was requisitioned and inserted in the

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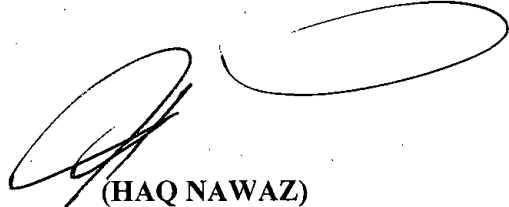
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system during the course of arguments on 09.10.2025, but it was found empty.

9. The above facts lead this Court to an irresistible conclusion that the prosecution remained badly fail to bring home the charge against the accused without the shadow of doubt. Resultantly, the accused Shams Ur Rehman s/o Muhammad Yousaf, Caste Stori Khel, r/o Tarkho Sam, District Orakzai is acquitted from the charges levelled against him. He is on bail. His bail bonds stand cancelled and his sureties are discharged from the liabilities of the bail bonds.
10. The case property be kept intact till arrest of the absconding accused and final disposal of the case. File of this Court be consigned to record room after its necessary completion and compilation.

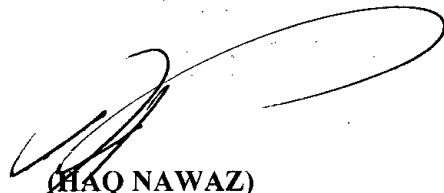
Announced:
21.10.2025


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CERTIFICATE

Certified that this judgement consists of nine (09) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 21.10.2025


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