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State Vs Muhammad Yasir.

Case FIR No. 41, Dated 08.10.2023 under section 15 Khyber Pakhtunkhwa Arms Act, 2013, police station Mishti Mela,

Orakzai.

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IN THE COURT OF MUHAMMAD JUNAID ALAM, JUDICIAL
MAGISTRATE -II TEHSIL KALAYA, DISTRICT ORAKZAI

Case No. 15/3 of 2023
Date of Institution: 01.12.2023
Date of transfer in: 07.10.2024
Date of Decision: 15.09.2025

State through:

ASHO SHBEER KHAN, POLICE STATION MISHTI MELA,
ORAKZAI.

.....**COMPLAINANT**

VERSES

MUHAMMAD YASIR SON OF SAQEEL KHAN, RESIDETN
OF QOM UTMAN KHEL, BRANKA KHEL, DISTRICT
ORAKZAI.


....**ACCUSED FACING TRIAL**

Present: SANA ULLAH KHAN ADVOCATE
FOR ACCUSED FACING TRIAL.

Case FIR No. 41, Dated 08.10.2023 under section 15 Khyber
Pakhtunkhwa Arms Act, 2013, police station Mishti Mela, Orakzai.

JUDGMENT:

15.09.2025


MUHAMMAD JUNAID ALAM
Civil Judge / JM-II
Orakzai at Kalaya

Through this judgment the Court intends to dispose
of the instant case registered against accused Muhammad
Yasir vide FIR No. 41, dated 28.10.2023 under sections 15 of
Khyber Pakhtunkhwa Arms Act, 2013 registered at Police
Station Central Mishti Mela.

1. Brief facts as per contents of FIR are that ASHO police station Mishti Mela alongwith constables Saleem Khan belt no. 1242 and Muhammad Umar belt no. 252 were present at barricade laid down at Main road from Mishti to Daboori. That one person was coming from Daboori side, upon seeing the police party he tried to escape but in vain. Upon his body search the complainant recovered and took into possession one Kalashnikov without number alongwith fixed charger and 05 live rounds of 7.62 bore which were packed and sealed into parcel no. 01. The accused failed to produce any valid license/permit regarding the recovered arms and ammunitons. The accused disclosed his name as Muhammad Yasir son of Saeel Khan, resident of Qom Utman Khel, Tapa Branka Khel, District Orakzai. Complainant/ASHO charged the accused for the commission of offence. Complainant/ASHO issued his card of arrest. Murasila, card of arrest and recovery memo was sent to the PS for registration of the instant case through constable Muhammad Umar belt no. 252. Upon the same FIR bearing no. 41 dated 08.10.2023 under sections 15 of Khyber Pakhtunkhwa Arms Act, 2013 registered at Police Station Central Mishti Mela. After completion of investigation, SHO submitted complete challan against the accused facing trial which was exhibited as Ex. PW-2/1.


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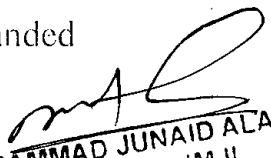
State Vs Muhammad Yasir.

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Orakzai.

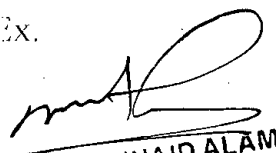
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2. After completion of investigation, complete challan was submitted by prosecution against the accused facing trial.
3. Accused was summoned and legal formalities under Section 241-A Cr. PC was complied with. Accused was formally charged. He pleaded not guilty and claimed trial, afterwards prosecution was directed to produce its evidence.
4. Prosecution produced seven (07) witnesses to prove its case against the accused facing trial.
5. **PW-01** is the statement of Saeed Khan belt no. 167 police station Mishti Mela. Stated on oath that parcel containing case property in sealed condition was handed over to him along with road permit certificate No. 74/21 MM by IO for the purpose of taking the same to FSL Peshawar. He took the parcel to FSL Peshawar and handed over the same to incharge FSL and receipt thereof was given to him which he handed over to IO on his return to PS.
6. **PW-02** is the statement of SI Aftab Ahmad, police Orakzai. Stated on oath that during the days of occurrence, he was posted as SHO PS Mishti Mela. After completion of investigation, he has submitted complete challan against the accused. Challan form is Ex. PW-2/1.
7. **PW-03** is the statement of ASI Muhammad Ayub Khan. He is the IO in the instant case. Stated on oath that after registration of the case, copy of FIR along with relevant documents were


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handed over to him for investigation. He proceeded to the spot and prepared site plan Ex. PB on pointation of complainant/ASHO Shabbir Khan. He recorded statements of PWs u/s 161 Cr.PC. Accused was arrested by SHO/complainant PS Mishti Mela. Accused was handed over to him by Moharrir of PS for interrogation/completion of investigation. On 09.10.2023, he produced the accused along with parcel No. 01 before the court for judicial remand vide my application is Ex. PW-3/1. He interrogated the accused and recorded his statement u/s 161 Cr. PC. Accused refused to confess his guilt and he was sent to judicial lock-up. Parcel No. 1 containing Kalashnikov was sent to FSL vide his application was Ex. PW-3/2. FSL report was received and placed on file. FSL report was Ex. PW-3/3. He has also placed on file copy of register 19, DD reports and receipt/road permit certificate. Receipt/road permit certificate was Ex. PW-3/4. (STO Ex. PW-3/4 is not admissible in evidence being photocopy).

8. **PW-04**, is the statement Constable Saleem Khan police station Kalaya. Stated on oath that he was the marginal witness of the recovery memo dated: 08.10.2023 through which ASHO recovered one Kalashnikov without number containing 05 cartridges. Murasila, recovery memo and card of arrest drafted by ASHO and handed over the same to Constable Muhammad Umar for sending to PS.


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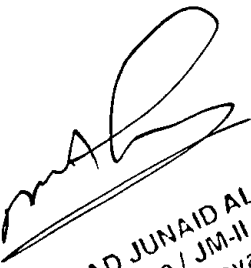
9. PW-05, statement of Moharrir Khalil police station Daboori,

District Orakzai. Stated on oath that he was present in the PS on duty when Constable Muhammad Umar Belt no. 252 brought Murasila, card of arrest and recovery memo from complainant Muhammad Shabbir ASHO PS Mishti Mela. He incorporated the contents of Murasila into FIR Ex. PA. Case property in sealed condition was also brought to PS along with accused and it was handed over to him. Case property was kept in safe custody of PS Maal Khana. Accused was locked up. Case property in sealed condition was handed over to IO for the purpose of sending to FSL. He entered the detail of case property in register no. 19.

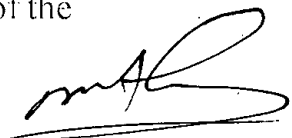
10. PW-06, statement of SI Shabeer Khan, police line Orakzai.

Stated on oath that he was posted as ASHO, PS Mishti Mela.

On 08.10.2023, he alongwith constables Salemm Khan and Muhammad Umar were present at barricade laid down at Tagha Saam, Orakzai. In the meantime, one person seeing the police party, he tries to fled away but failed. Upon his body search he recovered and took into possession one Kalashnikov without number alongwith fixed charged and 05 live rounds of 7.62 bore which was packed and sealed into parcel no. 01, Ex. P-1 vide recovery memo was Ex. PC, for which the accused could not produce any valid license/permit. One seal of monogram with name of AA put inside the parcel while


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affixed 3 seals of monogram AA on the parcel. Accused disclosed his name as Muhammad Yasir. He charged the accused for the commission of offence. He arrested the accused and issued his card of arrest which is Ex. PW-6/1. Murasila was drafted on the spot which was Ex. PW-6/2. Card of arrest, recovery memo and Murasila were sent to PS through constable Muhammad Umar belt no. 252 for registration of the case.

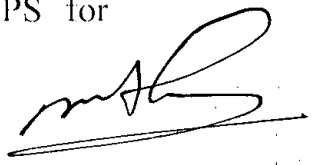


11. PW-06, statement of SI Muhammad Umar belt no. 252 police station Mishti Mela Orakzai. Stated on oath that he was present with ASHO Shabeer Khan on barricade. In the meantime, one person seeing the police party, he tries to fled away but failed. Upon his body search ASHO/complainant recovered and took into possession one Kalashnikov without number alongwith fixed charged and 05 live rounds of 7.62 bore which was packed and sealed into parcel no. 01, which was already exhibited as Ex. P-1 vide recovery memo already exhibited as Ex. PC, for the which the accused could not produce any valid license/permit. ASHO/complainant put one seal of monogram with name of AA inside the parcel while affixed 3 seals of monogram AA on the parcel. Accused disclosed his name as Muhammad Yasir. ASHO/complainant charged the accused for the commission of offence. He arrested the accused and issued his card of arrest which was

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already Ex. PW-6/1. ASHO/complainant drafted Murasila on the spot which was already exhibited as Ex. PW-6/2. ASHO/complainant handed over to him Murasila, recovery memo and card of arrest and he took to the same and handed over to the Moharrir Muhammad Jameel in the PS for registration of the case.

12. Afterwards, prosecution closed its evidence.


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13. Statements of accused under section 342 Cr. PC was recorded

wherein he pleaded not his guilt and also did not wish to be examined on oath. He even opted not to produce defense evidence.

14. Thereafter, argument was heard on behalf of the counsel for accused.


15. Claim of the prosecution is that the accused was charged for possessing of one Kalashnikov without number alongwith fixed charger and 05 live rounds of 7.62 bore. Perusal of the statement of PWs, it was revealed that as for as the alleged occurrence is concerned, it is pertinent to mention here that Murasila reveal that the occurrence took place on 08.10.2023, when IO in the instant case was appeared as PW-03, had deposed in his cross examination that alleged occurrence is took place on 08.10.2023.

As for as the departure of IO is concerned, it is pertinent to mention here that IO appeared in the witness box and deposed

in his cross examination that he left the spot at about 1600 hours when PW-06 stated in his cross examination that IO came to the spot at about 04:10 PM. Similarly, PW-07 also stated in his cross examination that IO came to the spot at about 04:15/20 PM.

As for as Murasila carrier is concerned, it is noted that PW-06 SI Shabeer Khan, the complainant in the instant case has stated in his cross examination that Murasila carrier left the spot at about 15:30 hours, when the same question was put to PW-07, the Murasila carrier stated in his cross examination that Murasila documents were handed over to him at about 15:30 hours.

As far as departure of Seizing Officer alongwith police officials is concerned, it is pertinent to mention here that PW-06 Shabeer Khan stated in his cross examination that we left the spot at about 05:00 PM when PW-07 stated in his cross examination that we left the spot 04:40 PM and returned to the PS at about 05:00 PM.


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16. In light of above discussion, it is clear that only minor discrepancies are in the prosecution evidence, however, they are not fatal to the merit of the case. The case of the prosecution is proved, through solid and reliable evidence, therefore, the accused facing trial is hereby convicted for commission of offence under sections 15 of Khyber

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Case FIR No. 41, Dated 08.10.2023 under section 15 Khyber Pakhtunkhwa Arms Act, 2013, police station Mishui Mela,

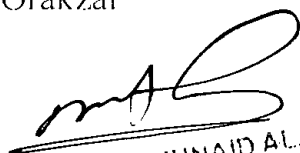
Orakzai.

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Pakhtunkhwa Arms Act, 2013, for three-years simple imprisonment and Fine of Rs 7,000/-.

17. Furthermore, there is nothing on record which could show previous involvement of accused in such like cases, being first offender, thus, the sentence and conviction ibid is suspended and converted into probation and he is placed on probation for the period under one year the Probation Ordinance. He shall remain under the supervision of the Probation Officer (male) for the above-mentioned period subject to furnishing bail bonds in the sum of Rs. 100,000/- with two local and reliable sureties, to the satisfaction of probation officer (male) Orakzai with the following conditions.

- i. That he shall not repeat the offence.
- ii. That he shall keep and maintain peace and order in the society.
- iii. That he must exhibit good behavior during the prescribed period of probation.
- iv. That he shall appear before the probation officer once in a month, which date is left to the discretion of the probation officer to be fixed.
- v. That he shall not leave the country without permission of probation officer.


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- vi. That if he violates the above conditions, the bonds will be recalled and he will be proceeded in accordance with the provision of the Ordinance ibid.
- vii. That in case of default by the convict, the direction regarding probation shall stand recalled and convict shall undergo imprisonment accordingly.
- viii. The Probation Officer (male) is directed to submit his report to this court about their character and conditions as aforesaid once in a quarter. Copy of this order be sent to the probation officer for compliance as per law.

18. Case property be dealt with in accordance with law.

19. Case file be consigned to Record room after its completion and necessary compilation.

Announced

15.09.2025




Muhammad Junaid Alam,
Judicial Magistrate -II,
Tehsil Court Kalaya, Orakzai

CERTIFICATE

Certified that my judgment of today consists of ten (10) pages, each page has been read, signed and corrected by me where necessary.

Announced:

15.09.2025



Muhammad Junaid Alam,
Judicial Magistrate -II,
Tehsil Court Kalaya, Orakzai