

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

Case No. 13/3 of 2023
Date of Institution: 01.06.2023
Date of transfer in: 07.10.2024
Date of Decision: 28.11.2025

State through:

SHO AFTAB AHMAD, POLICE STATION KALAYA,
 ORAKZAI.

.....**COMPLAINANT**

VERSES

AMEER JAN SON OF SAKHI BAZ, RESIDENT OF QOM
 MALAK DEEN KHEL, SAR DANDH, DISTRICT KHYBER.

....**ACCUSED FACING**

TRIAL

Muhammad Junaid Alam
Civil Judge JM-II
Orakzai at Kalaya

Present: ABID ALI ADVOCATE FOR ACCUSED
 FACING TRIAL.

Case FIR No. 36, Dated 10.04.2023 under section 15 & 17 Khyber
Pakhtunkhwa Arms Act, 2013, police station Kalaya, Orakzai.

JUDGMENT: *order*
28.11.2025

Through this judgment the Court intends to dispose
 of the instant case registered against accused Ameer Jan vide
 FIR No. 36, dated 10.04.2023 under sections 15 & 17 of
 Khyber Pakhtunkhwa Arms Act, 2013, registered at Police
 Station Kalaya.

1. Brief facts as per contents of FIR are that SHO police station

Kalaya alongwith constables Wajid belt no. 320 & Irshad belt no. 336 and driver Muhammad Ayaz belt no. 1348 were present at barricade laid down at Karghan check-post, Orakzai. That one motorcar Suzuki Mehran in white color bearing no. LZZ-2155/Punjab coming from Miadan, District Khyber side was stopped. The driver was deboarded from the motorcar and disclosed his name as Ameer Jan son of Sakhi Baz, resident of Qom Malak Deen Khel, Sar Dandh, District Khyber. His body search conducted but nothing incriminating was recovered, however, during the search of motorcar, one screwdriver was recovered from the switchboard of the alleged motorcar and with the help of which a secret cavity under the switch board was discovered. SHO/complainant recovered and took into possession 1802 cartridges of 303 bore. Accused could not produce any valid license/permit. Case property i.e. 1802 cartridges of 303 bore was packed and sealed into parcel no. 01, while the recovered screwdriver was packed and sealed into parcel no. 02. By affixing 3/3 seals of monogram with the name of AA on each parcel while one-seal each was put inside each parcel. The alleged motorcar alongwith registration copy were took into possession through recovery memo which is Ex.PW-4/3. Accused was charged for the commission of offence. Murasila, card of



MUHAMMED JAVED ALAM
Civil Judge / J.A.M
Orakzai at Kalaya

arrest and recovery memo were sent to the Police Station through constable Wajid Ullah belt no. 320 to the PS for registration of instant case. Upon the same FIR bearing no. 36 dated 10.04.2023 under sections 15 & 17 of Khyber Pakhtunkhwa Arms Act, 2013 registered at Police Station Kalaya. After completion of investigation, SHO submitted complete challan against the accused facing trial which was exhibited as Ex. PW-4/4.

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 five (05) witnesses to prove its case against the accused facing trial.
5. PW-01 is the statement of SI Murtaza, which is re-produced as under. He stated on oath that after registration of the case, copy of FIR along with relevant documents were handed over to him for investigation. He proceeded to the spot and prepared site plan Ex. PB on pointation of complainant/SHO. He recorded statements of PWs u/s 161 Cr.PC. Case property in sealed condition was handed over to him and he sent the same to FSL vide my application Ex.PW-1/1 and road permit



MUHAMMAD JUNAID ALAM
Civil Judge / Jildi
Orakzai at Kalaya

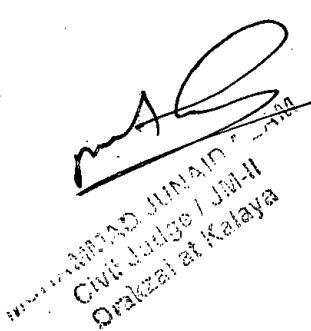
Kalaya, Orakzai.

Page 4 of 11

certificate Ex.PW-1/2 through the HC Khalil Rehman No.

1236 and he also received FSL report is Ex.PW-1/3. He got examined the vehicle in question from FSL. The report of which is Ex.PW-1/4. The accused was arrested and was locked in the lock-up of the PS. He interrogated the accused in PS and on 11.04.2023, he produced the accused before the court for obtaining his physical custody vide my application Ex.PW-1/5. Request for physical custody was turned down and accused was committed to judicial lock-up. He recorded statement of accused u/s 161 Cr.PC. After completion of investigation, he handed over case file to SHO for submission of complete challan against accused.

6. PW-02 is the statement of Moharrir Muhammad Jameel, which is reproduced as under. He stated on oath that on the day of occurrence, he was present in the PS on duty when Constable Wajid No. 320 brought Murasila from spot from SHO Aftab Ahmad to PS and he incorporated the contents of Murasila into FIR Ex. PA. Case property was also brought to PS along with accused by the SHO and it was handed over to him. Case property was kept in safe custody. Entry was made in register 19. Accused was locked up. Case property was handed over to IO for the purpose of sending to FSL on 13.04.2023. His statements were recorded U/S 161 Cr.PC.



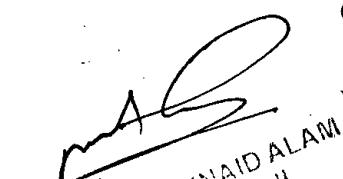
7. PW-03 is the statement of constable Khalil Ur Rehman,

which is reproduced as under. He stated on oath that parcel containing case property was handed over to him by IO which he took to FSL Peshawar. Case property was handed over to incharge FSL Peshawar. His receiving signature was obtained on the receipt which he handed over to IO on his return. His statement was recorded U/S 161 Cr.PC.

8. PW-04, is the statement SI Aftab Khan, which is reproduced

as under. He stated, on oath that during the days of occurrence, he was posted as SHO PS Kalaya. On the day of occurrence, he along with constable Wajid No. 320, Irshad No. 336 and driver Muhammad Ayaz No. 1348, improvised barricade at Karghan Check Post when a motorcar Suzuki Mehran, white color bearing Reg. No. LZZ-2155, Punjab was coming from Maidan side of District Khyber. The motorcar was stopped. The driver of the motorcar disclosed his name as Ameer Jan S/O Sakhi Baz R/O Qaum Malak Din Khel Sar Dand, District Khyber. His body search was conducted, but nothing incriminating was recovered from his possession,

however, during the search of motorcar, screwdriver was recovered switch board of the motorcar with the help of which a secret cavity under the switch board was discovered. On checking the same, 1802 live cartridges of 303 bore were recovered from the secret cavity of the motorcar. Accused


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

failed to produce any license/permit for the same. The recovered cartridges were packed and sealed into parcel No. 1 Ex. P-1 while screwdriver was packed and sealed into parcel No. 2 Ex. P-2 by affixing 3/3 seal with mark of AA while 1/1 seal was put inside the parcel. The motorcar mentioned above, along with registration book were taken into possession in presence of marginal witnesses. The recovery memo in respect of cartridges, screwdriver and motorcar is Ex.PW-4/1.

Accused was formally arrested. Card of arrest is Ex.PW-4/2.

Murasila Ex.PW-4/3 was drafted at the spot and was sent to PS for registration of the case through constable Wajid No. 320. He also pointed out the spot to the IO who prepared site plan on his pointation. After completion of investigation, he submitted complete challan against the accused. Challan form is Ex. PW-4/4. Motorcar has been released on superdari to the accused/petitioner by the court concerned. Today, he has seen all the above referred documents which are correct and correctly bear his signatures.



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

9. PW-05, statement of constable Wajid Ullah belt no. 320, which is reproduced as under. He stated, on oath that during the days of occurrence, he was posted at PS Kalaya. On the day of occurrence, he was present with SHO Aftab Ahmad during Naka Bandi at Karghan check post. In his presence, SHO/complainant recovered and took into possession 1802

live cartridges of 303 bore from the secret cavity of the motorcar bearing Reg. No. LZZ-2155, Punjab, one screwdriver and motorcar along with registration book vide recovery memo already exhibited as Ex.PW-4/1. The recovered cartridges were packed and sealed into parcel No. 1 while screwdriver was packed and sealed into parcel No. 2 by affixing 3/3 seal with mark of AA while 1/1 seal was put inside the parcel. SHO/complainant drafted Murasila at the spot and handed over the same to him along with card of arrest and recovery memo which he took to PS for the registration of the case. The same were handed over to Moharrir of the PS. Today, he has seen recovery memo which is correct and correctly bears his signature. His statement was recorded u/s 161 Cr.PC.

10. Afterwards, prosecution closed its evidence.

11. Statement 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.

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

13. Claim of the prosecution is that the accused was charged for possessing of 1802 cartridges of 303-bore without license/permit. Perusal of the statement of PWs, it was

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

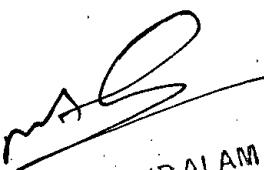
revealed that as for as arrival of the IO is concerned to the spot, it is pertinent to mention here that PW-04 the SHO/complainant in the instant case stated in his cross examination that IO came to the spot at about 20:20 hours, while PW-01, IO in the instant case stated in his cross examination that he came to the spot at about 20:35 hours.

As for as time of occurrence is concerned, PW-01 Murtaza stated in his cross examination that when he reached to the spot it was dark. When PW-04 SHO/complainant appeared before the court and stated in his cross examination that when IO came to the spot, it was dark.

As for as the distance between PS and spot is concerned. PW-01 stated in his cross examination that the distance between the spot and PS Kalaya is 10-12 KM while PW-04 stated in his cross examination that the distance between the spot and PS is about 10-12 KM.

As for as Murasila is concerned, it is noted that PW-04 SHO/complainant stated in his cross examination that Murasila carrier left the spot at about 1900 hours and returned back to the spot after arrival of IO. When PW-05 HC Wajid appeared and deposed in his cross examination that he left the spot to PS for taking Murasila at about 1900 hours.

As for as the spot is concerned, it is pertinent to mention here that PW-05 stated in his cross examination that it is correct



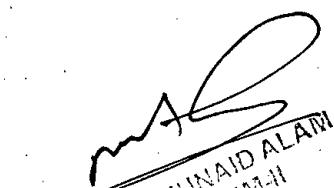
MUHAMMAD JUNAID ALAM
Civil Judge / JM-II
Orakzai at Kalaya

that spot is surrounded by some houses. When PW-04 appeared and deposed in his cross examination that the spot is surrounding with houses. Similarly, PW-01 stated in his cross examination that the spot is situated near the houses.

As for recovery is concerned, it is pertinent to mention here that counsel for accused put such question to PW, which otherwise admission, he replied that "*it is correct that all the cartridges were duly sealed and I do not know that 910 cartridges of 8 MM and 162 cartridges of 7.62 bore.* It is also worth mentioning here that counsel for accused put another such question to the concerned marginal witness, which otherwise admission, the PW replied that complainant recovered 1802 cartridges of 303-bore from the accused.

14. 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 & 17 of Khyber Pakhtunkhwa Arms Act, 2013, for three (03) years simple imprisonment and Fine of Rs 60,000/. In default he shall undergo for 09-months simple imprisonment.

15. Furthermore, there is nothing on record which could show previous involvement of accused in such like cases, being



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

first offender, thus, the sentence and conviction ibid is suspended and converted into probation and he is placed on probation for the period under two years 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.
- 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.



MUHAMMAD SULEMAN ALI
Civil Judge / J.M.H.
Orakzai at Kalaya

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.

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

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

Announced

28.11.2025



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

CERTIFICATE

Certified that my judgment of today consists of eleven (11) pages, each page has been read, signed and corrected by me where necessary.

Announced:

28.11.2025



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