

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

Case No. 18/3 of 2024
Date of Institution: 20.11.2024
Date of Decision: 19.12.2025

State through:

SHO MUHAMMAD YOUNAS POLICE STATION KALAYA,
ORAKZAI.

.....COMPLAINANT

VERSES

NIKNAB ALI SON OF JAMSHED ALI, RESIDENT OF QOM
MANI KHEL, DISTRICT ORAKZAI.

.... ACCUSED FACING TRIAL

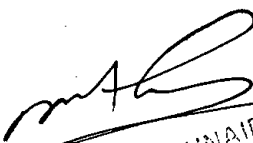
Present: MR. ARIF AKBER, APP FOR THE STATE.
MR. TAZA KHAN ADVOCATE FOR
ACCUSED FACING TRIAL.

Case FIR No. 66, dated 30.07.2024 under section 11-A CNSA & 15 of Khyber
Pakhtunkhwa Arms Act, 2013 police station Kalaya, Orakzai.

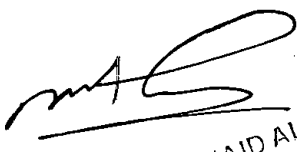
JUDGMENT/Order:
19.12.2025

Through this judgment/order the Court intends to

dispose of the instant case registered against accused Niknab
Ali vide FIR No. 66, dated 30.07.2024 under section 11-A
CNSA & 15 of Khyber Pakhtunkhwa Arms Act, 2013,
registered at Police Station Kalaya, Orakzai.


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

1. Brief facts as per contents of FIR are that, on 30.07.2024 at about 10:20 AM, the SHO/complainant alongwith constables Fazal Hameed belt no. 1247 and Saleem Khan belt no. 1242 alongwith driver Muhammad Ayaz were present on area patrolling. During patrolling at the near Kalaya Bazar School Chowk, one-person pedestrian in suspicious condition was stopped for the purpose of checking. Upon the body search, the SHO/complainant recovered and took into possession one 30-bore pistol without number alongwith fixed charger containing 01 live rounds of the same bore from the badda shalwar, to which accused could not produce any valid license/permit. On further search, the SHO/complainant recovered and took into possession one plastic envelope in white colour from the side pocket containing ice. On weighing through digital scale it came out 35-grams. One-gram was separated for FSL analysis and was packed and sealed into parcel no. 01 while remaining stuff of ice i.e. 34-grams was packed and sealed into parcel no. 02. Complainant signed with sharp object on the recovered pistol and was packed and sealed into parcel no. 03. Videography of the occurrence, was made by constable Fazal Hameed belt no. 1247, and saved in the USB. The USB was packed and sealed into parcel no. 04. 01/01 seals of monogram with the name of MY was put inside each parcel while affixed 3/3 seals of


MUHAMMAD JUNAID ALAM
CJ-II Judge / JM-II
Orakzai Kalaya

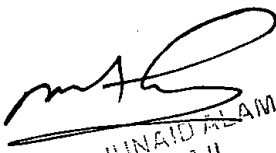
monogram with the name of MY on each parcel. Accused disclosed his name as Niknab Ali son of Jamshed Ali. Accordingly accused was arrested on the spot and issued his card of arrest. Complainant/SHO charged the accused for the commission of offence. Murasila was drafted by the complainant, it was converted into FIR. Hence, the case in hand. SHO/complainant sent card of arrest, recovery memo and Murasila through constable Saleem Khan belt no. 1242 to the concerned police station for registration of the instant case. After lodging of FIR, relevant documents were handed over to the investigation staff.

2. 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 against the Abdul Salam facing trial.

3. Prosecution produced four (04) witnesses to prove its case against the accused facing trial.

4. PW-01 is the statement of constable Iftikhar Ali belt no. 541, which is reproduced as under;


He stated on oath that during the days of occurrence, he was posted as constable police station Kalaya. He was posted as constable police station Kalaya. OII handed over to him parcel no. 03 containing case property alongwith application


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

addressed to In-charge FSL Peshawar and road permit certificate, which he took the same to FSL Peshawar. He handed over the above mentioned documents alongwith parcel were handed over to in-charge FSL Peshawar. Receipt thereof, was given to him which he handed over to OII. His statement was recorded by OII u/s 161 Cr.PC.

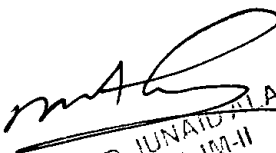
5. **PW-02** is the statement of SI Menhaz Hussain, which is reproduced as under;

He stated on oath that during the days of occurrence, he was posted as OII police station Kalaya. 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.


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

He recorded statements of PWs including accused u/s 161 Cr.PC. Accused was arrested by SHO/complainant PS Kalaya and was handed over to him for interrogation/completion of investigation. On 31.07.2024, he produced the accused before the court for recording of his confessional statement under section 164/364 Cr. PC. Accused refused his guilt and was sent to judicial lock up Orakzai, vide his application is Ex.PW-2/1. On 02.08.2024, Moharrir of the PS handed over to him parcels no. 01, 03 & 04 containing case property were sent to FSL vide his applications Ex.PW-2/2, Ex. PW-2/3 & Ex. PW-2/4

alongwith road permit certificates are Ex. PW-2/4, Ex. PW-2/5 & Ex. PW-2/6. On the return, he handed over the parcel no. 03 & 04 to Moharrir of the PS and recorded his statement under section 161 Cr. PC. On 05.08.2024, Moharrir Asmat Ali handed over to him parcel no. 03 containing pistol of 30-bore, which constable Iftikhar Hussain took the same to FSL. On the return he recorded statement of special messenger and Moharrir of the PS under section 161 Cr. PC. FSL reports were received in positive which are Ex. PZ & Ex. PZ/1 and placed on file. He has also placed on file copy of register 19, DD reports which are Ex. PW-2/7 & Ex. PW-2/8 respectively. After completion of investigation, he handed over case file to SHO for submission of complete challan against accused. Today, he has seen the above referred documents which are correct and correctly bear my signatures.


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


6. **PW-03** is the statement of MHC Asmat Ali, which is reproduced as under;

He stated on oath that during the days of occurrence, he was present in the PS on duty when Constable Saleem Khan, belt no. 1242 brought Murasila, recovery memo and card of arrest from complainant Muhammad Younas SHO. He incorporated the contents of Murasila into FIR Ex. PA. Case property was also brought to PS along with accused by the complainant on his return and it was handed over to him. He made entry in

register no. 19. Case property in sealed condition was kept in safe custody of PS Maal-Khana. Accused was sent to police lock up after his body search. On 02.08.2024, at morning time, he handed over parcel no. 01, 03 & 04 for the purpose for sending for FSL analysis. OII handed over to him the said parcels on the return from the FSL and he kept the same in safe custody of PS Maal-Khana. On 05.08.2024, at morning time he handed over parcel no. 03 to OII in sealed condition. His statements were recorded by OII under section 161 Cr. PC. Today, he has seen the copy of FIR which is correct and correctly bears my signature.

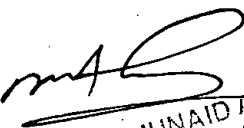
7. PW-04, is the statement constable Saleem Khan, which is reproduced as under;

He stated on oath that during the days of occurrence, he was posted as constable police station Kalaya, Orakzai. On 30.07.2024, he was present with SHO police station Kalaya. At the 10:20 hours one young person was pedestrian in suspicious condition was stopped for the purpose of checking. Upon his body search SHO/complainant recovered and took into possession one 30-bore pistol without number alongwith fixed charger containing 01 live cartridge in his presence. On further search of the accused SHO/complainant recovered and took into possession one envelope in white color from the side pocket containing ice. On weighing through digital scale it


MUHAMMAD
Civil Judge / Jinnah
Orakzai at Kalaya

came out 35-grams ice. One-gram sample of ice was separated for FSL and packed and sealed into parcel no. 01 while remaining stuff of ice i.e. 34-grams was packed and sealed into parcel no. 02. Pistol was packed and sealed into parcel no. 03 by the SHO/complainant. One seal was put inside each parcel while affixed 3/3 seals of monogram with the name of MY. SHO/complainant also handed over to him Murasila, card of arrest and recovery memo to the PS for registration of the instant case. Which he took to the PS and handed over to Moharrir of the PS. Today, he has seen the copy of FIR which is correct and correctly bears his signature.

This is his statement. His statement was recorded by IO under section 161 Cr. PC.

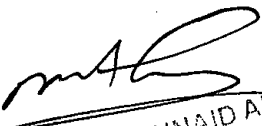

MUHAMMAD JUNAID ALAM
Civil Judge / JM-II
Orakzai at Kalaya

8. 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.
9. Thereafter, arguments were heard on behalf of the counsel for accused and APP for the State.
10. Counsel for accused argued that the accused is innocent and falsely been charged in the instant case. He further argued that police official is charged the accused on malafide intention just to show their efficiency to high ups.

11. Contrary to this APP for the State vehemently opposed and argued that the accused was directly and by name charged in the instant case. Recovery has been affected from the direct possession of accused facing trial.

12. Claim of the prosecution is that the accused was charged for possessing of one 30-bore pistol alongwith fixed charger containing 01 cartridges of the same bore and possessing of 35-grams ice.

13. 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 at about 10:20 am, when marginal witness to the recovery memo in the instant case was appeared as PW-04, had deposed in his cross examination that the occurrence took place at about 10:20 am. PW-02 the IO in the instant case also deposed in his cross examination that the occurrence took place at about 10:20 am.



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

As for as recovery is concerned, it is pertinent to mention here that PW-04 marginal witness of the recovery, he stated in his cross examination that the recovered substance was weighed through digital scale. on the search of the accused ice is recovered. Also, PW-04 stated in his cross examination that SHO/complainant made recovery from the accused.

25

As for as IO arrival is concerned, it is noted that IO in the instant case had stated in his cross examination that he reached to the spot at about 11:40 hours while PW-04 stated in his cross examination that IO came to the spot at about after 05-minutes of his arrival.

It is also noted that that counsel for accused put such question to PW which otherwise, admission, he replied as" *the recovered substance was weighted through digital scale*". Furthermore, counsel for accused put another such question to IO, which otherwise, admission, he replied as" that *I brought parcel no. 01 containing 01-gram ice alongwith parcel no. 03 & 04 to the FSL for analysis*".



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

Perusal the record further transpires that accused was charged for heinous offence and hence large effect on the society.

Recovery has been affected from the direct possession of the accused. Accused was charged directly in promptly lodged FIR. Accused was arrested on the spot, which shows his presence on the spot. All the recovery proceedings have been made on the spot.

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 section 15 of Khyber Pakhtunkhwa Arms Act, 2013, for 06-months simple imprisonment and Fine of Rs 10,000/-. In default he shall undergo for 01-month simple imprisonment. 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 six months 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.


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

- 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.

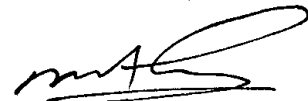
- vi. That if he violates the above conditions, the bonds will be recalled and he will be proceeded in accordance with the provision of the Ordinance *ibid*.
- vii. That in case of default by the convict, the direction regarding probation shall stand recalled and convict shall undergo imprisonment accordingly.
- 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.

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

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

Announced

19.12.2025



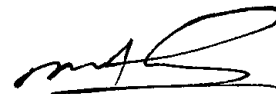
Muhammad Junaid Alam,
Judicial Magistrate -II,
Tehsil Court Kalaya, Orakzai

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:

19.12.2025



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