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

Case No.	**25/3 OF 2024**
Date of Original Institution:	**20.11.2024**
Date of Decision:	**20.02.2026**

State through:

SHO AKHTER MUNIR KHAN POLICE STATION MISHTI MELA ORAKZAI.

.....*COMPLAINANT*

VERSES

HAZRAT ULLAH SON OF KHIAL ZADA, RESIDENT OF QOM ISSA KHEL, VILLAGE SRA NAKA, DISTRICT ORAKZAI.

.... ACCUSED FACING TRIAL

Present: Mr. Arif Akber, Assistant Public Prosecutor for State.
Sana Ullah Khan Advocate, for accused facing trial.

JUDGMENT
20.02.2026

Through this judgement, the Court intend to dispose of the instant case registered against accused facing trial namely Hazrat vide FIR No. 51, dated 27.08.2024 under section 11-A CNSA police station Mishti Mela, Orakzai.

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Civil Judge / JM-II
Orakzai at Kalaya

1. Brief facts as per contents of FIR are that, on 27.08.2024 at about 1700 hours, the complainant alongwith constables Muhammad Umer belt no. 252 and Shaheed

Ullah belt no. 2195 alongwith driver Mekail were present on barricade laid down at main road Mishti Mela to Daboori, when a person pedestrian coming from Mishti Mela side in suspicious condition and he was engaged. Upon his body search, the complainant recovered and took into possession one plastic envelope in white colour containing ice. On weighing through digital scale it came out 15-grams ice. One-gram was separated for chemical analysis and was duly packed and sealed into parcel no. 01, while the remaining stuff of ice i.e. 14-grams ice was packed and sealed into parcel no. 02, Ex. P-1. Videography of the occurrence was made and saved in the USB, which was packed and sealed into parcel no. 03, Ex. P-2. The local police took into possession the recovered case property through recovery memo, which is Ex. PC. By affixing 03/03 seals of monogram with the name of AR and put one seal put inside each parcel. Accused disclosed his name as Hazrat Ullah son of Khial Zada, resident of Qom Issa Khel, Sara Naka, District Orakzai. Accordingly accused was arrested on the spot and issued his card of arrest, which is Ex. PW-3/1.Complainant charged the accused for the commission of offence. Murasila was drafted by

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the complainant, which is Ex. 3/3, it was converted into FIR which is Ex.PA.. SHO/complainant sent card of arrest, recovery memo and Murasila through constable Shaheed Ullah to the police station for registration of the instant case. After lodging of FIR, relevant documents were handed over to the investigation staff. IO prepared the site plan on the pointation of SHO/complainant, which is Ex. PB. Hence, the case in hand.

2. After completion of investigation, complete challan was submitted by prosecution against the accused Abdul Salam facing trial.

3. Accused was summoned. He appeared before the court and all the legal formalities under Section 241-A Cr. PC were complied with. Accused was formally charge sheeted. Accordingly, he pleaded not guilty and claimed trial, hence prosecution was directed to produce its evidence.

4. Prosecution produced five (05) witnesses to prove its case against the accused and thereafter, closed its evidence.

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5. **PW-01** is the statement of SI Muhammad Haneef, which is reproduced as under. He stated on oath that during the days of occurrence, I was posted as IO police station

Kalaya. SHO/complainant handed over to me copy of FIR alongwith relevant documents for investigation. On 22.08.2024, I proceeded to the spot, where the SHO/complainant produced accused alongwith parcel no. 01, 02 and 03 containing case property in duly sealed condition before me. I prepared site plan upon the pointation of complainant/SHO in the presence of marginal witnesses of recovery memo which is Ex. PB. I recorded statements of marginal witnesses of the recovery memo namely constables Shameer Ullah belt no. 2195 and Muhammad Umer belt no. 252 under section 161 Cr. PC. SHO/complainant return to the PS. I also recorded statement of Mad Moharrir Muhammad Saeed under section 161 Cr. PC. On the same day, I thoroughly interrogated accused facing trial in the PS and confess his guilt before me. I recorded statement of accused under section 161 Cr. PC. On 28.08.2024, I produced accused alongwith parcel no. 02 before the Magistrate concerned for obtaining his confessional statement under section 164/364 Cr. PC vide my application is Ex. PW-1/1, accused refused to confess his guilt and sent the accused to Judicial Lockup, Orakzai. On 03.09.2024, I took parcel no. 01 from

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Moharrir Muhammad Saeed in duly sealed condition which I handed over the same to constable Muhammad Riaz belt no. 54 for the taking the same to FSL Peshawar vide route certificate bearing no. 47/21 MM dated 03.09.2024. I recorded statements of Moharrir Muhammad Saeed and constables Muhammad Riaz belt no. 54 under section 161 Cr. PC. After receiving the FSL report of the instant case in affirmative, I placed the same on file, which is Ex. PZ. I also placed on file all the relevant documents of the instant case containing FSL application which is Ex. PW-1/2. I also annexed copies of register no. 19 and DD, which are Ex. PW-1/3 & Ex. PW-1/4 respectively. On completion of investigation I handed over the case file to SHO concerned for submission of complete challan against the accused facing trial before the court. Today, I have seen relevant documents which are correct and correctly bear my signatures.

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6. **PW-02,** is the statement of Constable Muhammad Riaz, belt no. 54, which reproduced as under;

He stated on oath that during the days of occurrence, I was posted as constable Mishti Mela. On 03.09.2024, OII handed over to me parcel No. 1 containing 01-gram

ICE sample for FSL examination along with application and route certificate bearing no. 47/21MM dated 03.09.2024 which is Ex. PW-2/1. I took the same to FSL Peshawar and handed over the same to in-charge FSL, Peshawar. Receiving signature and seal of in-charge FSL Peshawar was obtained on route certificate which I handed over to concerned police official on my return. My statement was recorded by OII under section 161 Cr. PC.

7. **PW-03,** is the statement of SHO/complainant Akhter Munir, which is reproduced as under;

He stated on oath that that during the days of occurrence, I was posted as SHO police station Mishti Mela. On 27.08.2024, I alongwith constables Muhammad Umar belt no. 252, Shameer Ullah belt no. 2195 and driver Makail Khan belt no. 1211 were present on barricade laid down at main road Mishti Mela to Daboori, situated at Tagha Saam. In the meanwhile, at about 17:00 hours, the accused Hazrat Ullah was coming from Mishti side in suspicious condition, who was stopped for the purpose of checking. Upon his body search, I recovered one plastic envelope in white color from the left side pocket containing ICE. Upon weighment through digital

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scale it came out 15-grams ICE. I separated 01-gram sample ICE from the recovered stuff for the purpose of FSL analysis, packed and sealed into parcel no. 01 while remaining stuff i.e. 14-grams Ice was packed and sealed into parcel no. 02, which is produced before the court Ex. P-1. I affixed 3/3 seals of monogram with the name of AR on the parcels while one sample monogram kept inside each parcel. I took into possession the said parcels vide recovery memo which is Ex. PC in the presence marginal witnesses namely constables Shameer Ullah and Muhammad Umar belt no. 252. Videography of the recovery proceeding was made through mobile phone and saved in the USB, which was packed and sealed into parcel no. 03, which is produced before the court Ex. P-2 by affixing monograms with the name of AR. I arrested the accused on the spot and issued his card of arrest which is Ex. PW-3/1. After preparing the Murasila report which is Ex. PW-3/2 handed over the same to constable Shameer Ullah to send it to PS for registration of FIR. IO prepared site plan on my pointation in the presence of marginal witnesses. After spot proceeding upon return to the PS, I handed over the accused alongwith case property to Moharrir concerned in the PS

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who made entry in the relevant register no. 19 and locked the accused in the lockup. Today I have seen the above referred documents which are correct and correctly bear my signatures.

8. **PW-04**, is the statement of Constable Shameer Ullah belt no. 2195 police station Mishti Mela, Orakzai, which is reproduced as under;

He stated on oath that during the days of occurrence, I was posted as constable Mishti Mela. On 27.08.2024, I alongwith constable Muhammad Umar belt no. 252 and driver Makail Khan belt no. 1211 were present with SHO on barricade laid down at main road Mishti Mela to Daboori, situated at Tagha Saam. In the meanwhile, at about 17:00 hours, the accused Hazrat Ullah was coming from Mishti side in suspicious condition, who was stopped for the purpose of checking. Upon his body search, SHO/complainant recovered one plastic envelope in white color from the left side pocket containing ICE. Upon weighment through digital scale it came out 15-grams ICE. He separated 01-gram sample ICE from the recovered stuff for the purpose of FSL analysis, packed and sealed into parcel no. 01 while remaining stuff i.e. 14-grams Ice was packed and sealed

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into parcel no. 02. SHO/complainant affixed 3/3 seals of monogram with the name of AR on the parcels while one sample monogram kept inside each parcel. He took into possession the said parcels vide recovery memo which is already Ex. PC in the presence marginal witnesses. Videography of the recovery proceeding was made through mobile phone and saved in the USB, which was packed and sealed into parcel no. 03 by affixing monograms with the name of AR. SHO arrested the accused on the spot and issued his card of arrest which is already Ex. PW-3/1. After preparing the Murasila report which is already Ex. PW-3/2 handed over the same to me for sending it to PS for registration of FIR. My statement was recorded by IO under section 161 Cr. PC. Today I have seen the above referred documents which are correct and correctly bear my signatures.

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8. **PW-05,** is the statement of ASI Saeed Khan, which is reproduced as under;

He stated on oath that during the days of occurrence, I was posted as Moharrir of the PS. I was present in the DD. On receipt of Murasila, card of arrest and recovery memo from SHO Akhter Munir through constable Shamsher Ullah Ali No. 2195. I correctly incorporated

the same into FIR, Ex. PA. Copy of FIR was handed over to OII for investigation. Accused and case property in sealed condition were handed over to me by SHO. Case property was kept in safe custody of PS Maal-Khana while accused was put in lock-up. Entry was made in register 19 accordingly. Extract of register 19 is already exhibited as Ex.PW-1/3. Entry was made in DD regarding departure from and arrival to PS of SHO and OII. Copy of the same is Ex.PW-5/1. On 03.09.2024, parcel containing case property in sealed condition was handed over to OII for the purpose of sending it to FSL. My statements were recorded by the IO u/s 161 Cr.PC. Today, I have produced original DD and register no. 19 before the court (seen and returned). Today, I have seen the above referred documents which are correct and correctly bear my signatures.

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9. PW Muhammad Umer belt no. 252 was abandoned by prosecution being the witness of the same fact as narrated by PW-04 Shameer Ullah.

10. Afterwards, statement of accused U/S 342 Cr. PC was recorded, wherein he pleaded not his guilt and did not wish to be examined on oath. He did not opted to produce defense evidence.

11. Thereafter arguments were heard from both the sides.

12. Now on perusal of the available record, valuable assistance of learned APP for the state and learned counsel for the accused facing trial, this court is of the view that as for as the time of occurrence is concerned, SHO/complainant when appeared as PW-03 had deposed in his cross examination that barricade was laid down at about 04:25 PM and after 35 minutes the occurrence took place. Murasila also reveals that the occurrence took place at 1700 hours.

As for the videography is concerned, it is noted that PW-03 stated in his cross examination that videography was made by constable Shameer Ullah from his mobile. When constable Shameer Ullah appeared and stated in his cross examination that he made the videography of the occurrence.

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As for as FSL chemical examination is concerned, it is noted that IO stated in his cross examination that the application addressed to the FSL on 03.09.2024 and PW-02 stated in his cross examination that he handed over the case property for FSL examination on 03.09.2024.

As for as police party with SHO is concerned, it is noted that IO stated in his cross examination that three police officials including SHO were present at the spot. Murasila also reveals that SHO laid barricade alongwith three police officials.

As for as the recovery is concerned, the counsel for defense a question was put to the witness to which he replied that "15-*grams ice was weight through digital scale and writing on parcel no. 02 by the complainant in my presence.* In circumstances after such admission on the part of accused facing trial, the dents in prosecution case are immaterial, as the recovery of ice and commission of offence has been admitted by the accused facing trial.

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13. In light of the above discussion, as prosecution succeeded to establish its case against accused facing trial.

14. As prosecution succeeded to prove its case against the accused facing trail beyond the shadow of doubt, therefore, accused Hazrat Ullah is hereby convicted and sentenced for offence under section 11-A CNSA with simple imprisonment of 20-days and fine of Rs-1500/. In default of payment of the fine, he shall undergo 05-

days simple imprisonment. Benefit of section 382-B is extended to the accused. The accused convicted, present before the court, is sent to judicial lockup alongwith conviction warrant to undergo the above awarded sentence in accordance with law. Attested copies of judgment is given to the convict named above free of cost and in this regard his thumb impression was obtained on the margin of order sheet and he was made aware of his right to appeal against the awarded conviction. Case property be dealt in accordance with law. File be consigned to the record room after its necessary completion and compilation.

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

Announced
20.02.2026

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

CERTIFICATE

Certified that this order consists of thirteen (13) pages, each page has been read, corrected wherever necessary and signed by me.

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