

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

SPECIAL CASE NO. : 34/3 (NEEM) OF 2026
DATE OF INSTITUTION : 12.01.2026
DATE OF DECISION : 22.08.2026

STATE THROUGH SHO SALEEM KHAN, POLICE STATION
GHILJO

.....(COMPLAINANT)

-VERSUS-

FAYYAZ KHAN S/O SHIREEN KHAN, CASTE MAMOZAI,
DISTRICT ORAKZAI

..... (ACCUSED)

Present : Abul Qasim, Senior Public Prosecutor for State.
: Noor Mir Jan Advocate for accused.

FIR No. 27
U/S: 9 (d) CNSA and 419 PPC

Dated: 29.07.2021
Police Station: Ghiljo

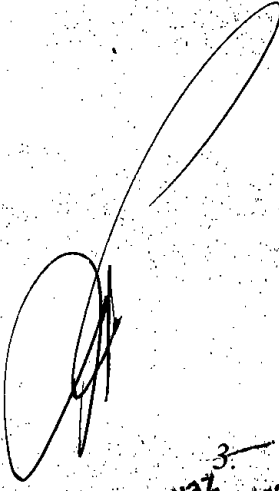

JUDGEMENT
22.08.2026

This case was registered against the accused **Fayyaz Khan**
S/O Shireen Khan, Caste Mamozai, District Orakzai vide FIR
No. 27, Dated 29.07.2021 at Police Station Ghiljo u/s 9 (d)
CNSA and 419 PPC.

2. According to averments of the FIR, the SHO Police Station
Ghiljo along with other police contingent, laid a barricade at
Krappa Check Post on 29.07.2021 when a Landcruiser
bearing Registration No. SAH27/Punjab was intercepted at
1500 hours. The person occupying the front seat was
deboarded and bottle of wine was recovered from his lap, who
disclosed his name as Muhammad Ishtiaq. The driver was also
disembarked who disclosed his name as Dast Ali and a 9MM
pistol bearing No. TFM20671 with fixed charger containing


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03 rounds was recovered from his trouser-fold. The person seated on the rear seat disclosed his name as Asif s/o Sharbat Khan and a sack was found in between his legs wherefrom 03 packets of chars were recovered. 01ml of wine was collected from the bottle for FSL and sealed the same into parcel No. 1 whereas the remaining wine with the bottle was sealed into parcel No. 2. The pistol along with ammunition was sealed into parcel No. 3. The complainant weighed the packets of chars which turned out to be 1100 grams each, making a total of 3300 grams while the sack turned out to be 50 grams. He separated 10 grams each as sample from the recovered packets of contraband and sealed the same into parcels No. 4 to 6 for the purpose of chemical analysis. The remaining 1090 grams of chars each and the sack were sealed into parcels No. 7 to 10. The Murasila and other documents were sent to police station for registration of FIR.

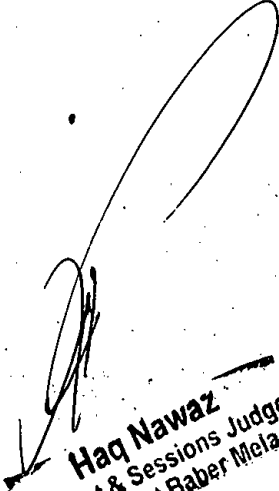

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After completion of investigation, complete challan was put in court. The accused was summoned and copies were provided to him under section 265-C CrPC. He was formally charged, but he pleaded not guilty and claimed trial. The prosecution produced a total of 07 witnesses. A brief resume of the depositions of the prosecution witnesses is as under;

- I. Ibrahim Khan SHO appeared before the court and recorded his statement as PW-1. He stated that he was present on gasht on 17.10.2022 and

intercepted the accused Asif alias Fayaz at 1815 hours and issued his card of arrest Ex. PW 1/1. He produced the accused before the Court of Judicial Magistrate vide application Ex. PW 1/3. He submitted supplementary challan Ex. PW ¼ against the accused facing trial. The PW verified the contents of all the documents, prepared by him and submitted that his signatures are correctly affixed on the same.

II. The complainant, SHO Saleem Khan, appeared before the Court as PW-2. He stated that he along with Shakeel Khan HC, Shah Jahan and Laiq Badshah constable laid a barricade on the spot on 29.07.2021 when a Landcruiser bearing Registration No. SAH27/Punjab was coming from Ghiljo side at 1500 hours. The PW recovered a bottle of wine from the person after being deboarded from the front seat. He disclosed his name as Muhammad Ishtiaq. The PW also deboarded the driver of the vehicle and a 9MM pistol bearing No. TFM20671 with fixed charger containing 03 rounds was recovered from his trouser-fold. He revealed his identity as Dast Ali. The person seated on the rear seat disclosed his name as Asif s/o Sharbat Khan and a sack was

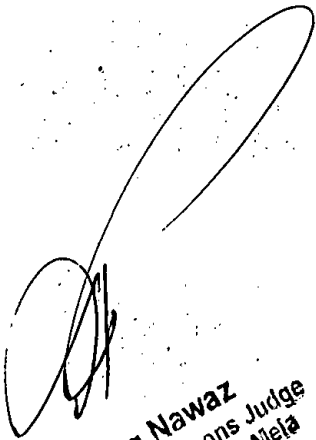

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Police Station: Ghiljo

found in between his legs wherefrom the complainant recovered 03 packets of chars. He collected 01ml of wine from the bottle for FSL and sealed the same into parcel No. 1 whereas the remaining wine with the bottle was sealed into parcel No. 2. The pistol along with ammunition was sealed by him into parcel No. 3. The complainant weighed the packets of chars which turned out to be 1100 grams each, making a total of 3300 grams while the sack turned out to be 50 grams. He separated 10 grams each as sample from the recovered packets of contraband and sealed the same into parcels No. 4 to 6 for the purpose of chemical analysis. The remaining 1090 grams of chars each and the sack were sealed into parcels No. 7 to 10. The parcels were affixed with monogram of 'GJ'. The recovery was effected through recovery memo which is Ex. PW 2/1. The complainant issued card of arrest of the accused which is Ex. PW 2/2. He prepared the Murasila Ex. PA/1 and sent it along with other documents to police station through Constable Shakeel Khan 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

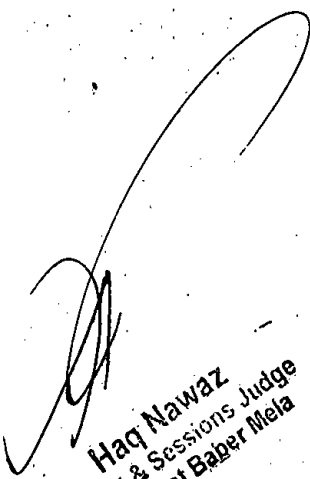

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and the accused to police station and handed the case property over to Moharrir while locked-up the accused. The PW verified the contents of all the documents, prepared by him and submitted that his signatures are correctly affixed on the same.

III. The Constable Shakeel Khan appeared before the Court as PW-3. He stated that he took the Murasila to police station for registration of FIR. His statement was recorded by the IO u/s 161 CrPC.

IV. Constable Rooh Ul Ameen stood in the witness box as PW-4. He stated that he along with other marginal witness Manzoor Ahmad were present with Sajjad Khan OII who recovered two ID Cards from the accused facing trial. The accused facing trial disclosed his name as Asif before the SHO while revealed his name as Muhammad Fayyaz before the IO. The PW further stated that the ID Cards were taken into possession by the IO in his presence through recovery memo Ex. PW 4/1.

V. Abdul Manan MHC appeared in the witness box as PW-5. He stated that he incorporated the contents of Murasila into FIR Ex. PW 5/1 and


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received the case property from the complainant in duly packed and sealed condition which were kept by him safely in Malkhana after making its entry in Register No. 19. He handed over parcels No. 1, 4, 5 and 6 to IO for its transmission to FSL on 02.08.2021. His statements were recorded by the IO u/s 161 CrPC.

VI. The Investigating Officer Sajjad Khan IO was examined as PW-5. He stated that after entrustment of investigation to him in the instant case, he proceeded to the spot where the complainant shown the case property along with the accused to him. The PW prepared the site plan Ex. PW 6/1 on the pointation of complainant and recorded the statements of witnesses on the spot. The IO produced the accused before the Court of Judicial Magistrate on 30.07.2021 vide application Ex. PW 6/2 for obtaining physical custody but his request was turned down. The IO took into possession CNIC of the accused vide recovery memo Ex. PW 4/1 which was shown by him at the time of his production before the Court of JM. The PW verified the CNIC of the accused through District Police Officer, Orakzai vide letter Ex. PW 6/3. The PW also took the accused

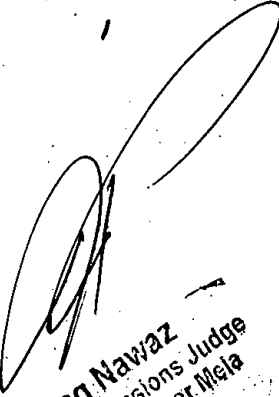

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to NADRA office after obtaining permission from JM vide application and the report was given to the IO which is Ex. PW 6/4. The IO issued memo of correction and addition of section which are Ex. PW 6/5 and Ex. PW 6/6. He sent the test samples to FSL along with application Ex. PW 6/7 and route permit Ex. PW 6/8. The FSL result of chars was placed on file by the IO which is Ex. PK. He submitted the case file to SHO for onward proceedings after completion of investigation.

VII. Laiq Badshah appeared before the Court as PW-7. He stated that he was present in front of the main gate of PS Ghiljo on 29.07.2021. A Land Cruiser arrived there at 08:00 am and a person having a pistol was boarded from the same who started abusing. The PW got furious and aimed his gun upon the accused and overpowered him. The PW took him to the lock-up and recovered one pistol from his possession. His statement was recorded by the IO u/s 161 CrPC.

4. After completion of prosecution's evidence, statement of the accused was recorded u/s 342 Cr.P.C. The accused claimed innocence; however, he neither wished to be examined on oath nor opted to produce any evidence in defence. I have heard learned Sr. PP and counsel for the accused.

5. After hearing both the parties and perusal of the record, it was found that the allegation against the accused was the recovery of 3300 grams of chars on 29.07.2021 at 1500 hours by the complainant/PW-2 from a sack lying in between the legs of the accused in vehicle No. SAH-27/Punjab when the same was stopped and searched on a barricade at Krappa Check-Post. The recovery was effected through recovery memo Ex. PW 2/1. The recovery proceedings were witnessed by Shah Jahana/PW-3 and Laiq Badshah/PW-7. The statement of Shah Jahan was recorded during the proceedings u/s 512 CrPC and he was not subjected to cross examination. Whereas PW-7 stated in his examination in chief that except a pistol no other incriminating article was recovered from the present accused. Needless to mention that according to the prosecution's case, the pistol was recovered from the co-accused Dast Ali Khan. Hence, the prosecution failed miserably to prove the alleged recovery of 3300 grams of chars from the present accused.

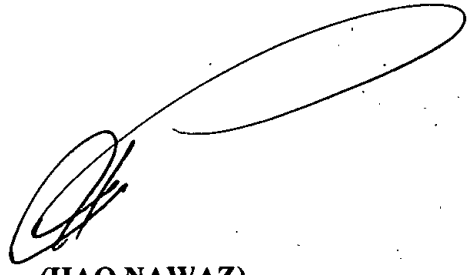

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6. The second allegation against the accused was with regard to disclosing his name as Asif s/o Sharbat Khan instead of Muhammad Fayyaz s/o Sharbat Khan on the basis of having two CNICs in his possession at the time of occurrence bearing No. 904060174803-3 and 904060187291-7 which were recovered from him through recovery memo Ex. PW 4/1. Hence, Section 419, 468 and 471 PPC were added

against him vide Parwana Ex. PW 6/6. Both the CNICs were sent to Deputy Director (LEA) NADRA, Hayatabad Phase V, Peshawar for verification vide Ex. PW 6/3 which were duly verified as per report Ex. PW 6/4 by the Deputy Director (LEA) Cell of NADRA, Regional Office, Peshawar. Hence, no case u/s 468/471 PPC was made out against the accused and mere presence of the CNIC of his brother does not constitute an offence u/s 419 PPC against the accused.

7. In view of the above, the accused **Fayyaz Khan** S/O Shireen Khan, Caste Mamozai, District Orakzai is acquitted from the charges levelled against him. The accused is on bail. His bail bonds stand cancelled and the sureties are discharged of the liabilities of bail bonds. The case property be destroyed after the expiry of period of appeal/revision. File of this Court be consigned to record room after its necessary completion and compilation.

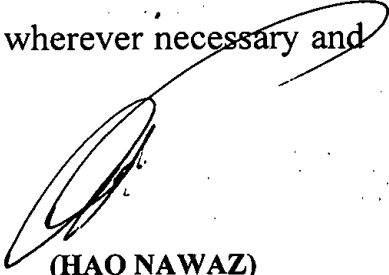
Announced:
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CERTIFICATE

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

Dated: 22.08.2026


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Sessions Judge/Judge Special Court,
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