

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

SPECIAL CASE NO. : 71/3 OF 2025
DATE OF INSTITUTION : 25.11.2025
DATE OF DECISION : 09.09.2026

STATE THROUGH SHO MUHAMMAD YOUNAS, POLICE STATION
MISHTI MELA

.....(COMPLAINANT)

-VERSUS-

RAZA BADSHAH S/O SAKHI BADSHAH, CASTE MISHTI, TAPA
MAMIZAI, R/O VILLAGE MIR GHARA, DISTRICT ORAKZAI

..... (ACCUSED)

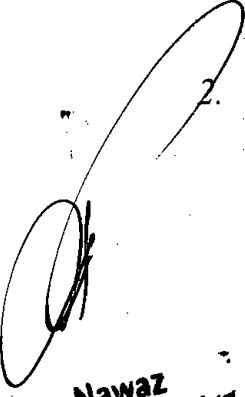
Present : Abul Qasim, Senior Public Prosecutor for State.
: Sana Ullah Khan Advocate for accused.

FIR No. 58 **Dated: 13.07.2025**
U/S: 9 (1) 3 (e) & 11 (1) 3 CNSA **Police Station: Mishti Mela**

JUDGEMENT
09.09.2026

This case was registered against the accused **Raza Badshah**
S/O Sakhi Badshah, Caste Mishti, Tapa Mamizai, R/O
Village Mir Ghara, District Orakzai vide FIR No. 58, Dated
13.07.2025 at Police Station Mishti Mela u/s 9 (1) 3 (e) and
11 (1) 3 CNSA.

2. According to averments of the FIR, the SHO Police Station
Mishti Mela along with other police contingent laid a
barricade at Tagha Sam on main road from Mishti Mela to
Dabori on 13.07.2025 when a motorcycle, coming from
Dabori side, was intercepted at 1600 hours. The driver was
having a white sack on oil tank of the motorcycle. During
personal search of the driver, a white plastic envelope was


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recovered from his right pocket, containing 74 grams of Ice.

The complainant separated 01 gram as sample from the recovered Ice which was packed and sealed into parcel No. 1

for the purpose of chemical analysis. The remaining 73 grams of Ice along with the envelope were packed and sealed into

parcel No. 2. The complainant also recovered 10 packets of chars, wrapped in yellow scotch tape from the recovered

white sack lying on the tank of the motorcycle. He weighed

each packet which came out to be 1000 grams each, making a

total of 10,000 grams. The complainant separated 10 grams

each as sample from the recovered contraband which were

packed and sealed into parcels No. 3 to 12 for FSL

examination. The remaining 9900 grams of chars along with

the sack were packed and sealed into parcel No. 13.

Videography of the occurrence was carried out which was

converted into a USB and packed and sealed into parcel No.

14. All the parcels were sealed with the monogram of 'MY'.

The Murasila and other documents were sent to police station

for registration of FIR.

3. 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 the accused pleaded not guilty and claimed trial.

The prosecution produced a total of 05 witnesses. A brief

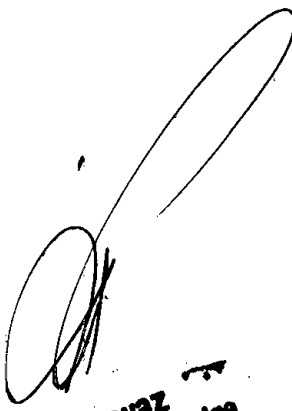
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resume of the depositions of the prosecution witnesses is as under;

- I. Constable Khalil Rehman stood in the witness box as PW-1. He stated that he took parcels No. 1 and 3 to 12 containing samples of contraband to FSL for chemical analysis on 15.07.2025. His statement was recorded by the IO u/s 161 CrPC.
- II. Ihsan Ullah Moharrir appeared in the witness box as PW-2. He stated that he incorporated the contents of Murasila into FIR Ex. PW 2/2 and received the case property from the complainant in duly packed and sealed condition which were kept by him safely in Malkhana after making its entries in Register No. 19 which is Ex. PW 2/3. He parked the motorcycle in the police station. The parcels No. 1 and 3 to 12 were handed over him to IO for its transmission to FSL on 15.07.2025. The PW produced daily diaries before the Court which are Ex. PW 2/4. His statements were recorded by the IO u/s 161 CrPC.
- III. The complainant, SHO Muhammad Younas, appeared before the Court as PW-3. He stated that he along with Constables Fazal Hameed and Saleem Khan laid a barricade on the spot on 13.07.2025, when a motorcycle came there from

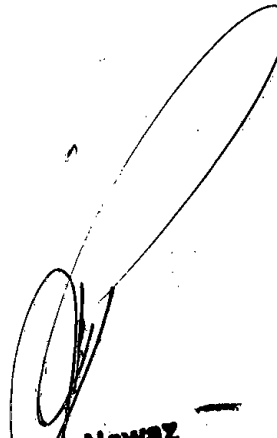

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Dabori at 1600 hours. The motorcycle was stopped and the rider was deboarded. A white sack, containing 10 packets of chars, was lying on the tank of the motorcycle driven by the accused. The PW also recovered a white plastic envelope containing 74 grams of Ice from side pocket of the accused. He separated 01 gram from the recovered Ice for FSL examination and sealed the same into parcel No. 1. The remaining 73 grams of Ice along with the envelope was sealed into parcel No. 2. He also separated 10 grams from each packet of contraband for FSL examination which were packed and sealed into parcels No. 3 to 12. The remaining quantity of chars along with the sack was sealed into parcel No. 13. Fazal Hameed Constable carried out videography of the occurrence through mobile of the PW which was saved and converted into a USB and sealed into parcel No. 14. The complainant placed one monogram of "MY" inside each parcel and affixed three monograms upon the parcels. The recovery was affected through recovery memo Ex. PW 3/2. The complainant issued card of arrest of the accused as Ex. PW 3/3. He prepared the Murasila Ex. PW 3/4 and sent it along with other


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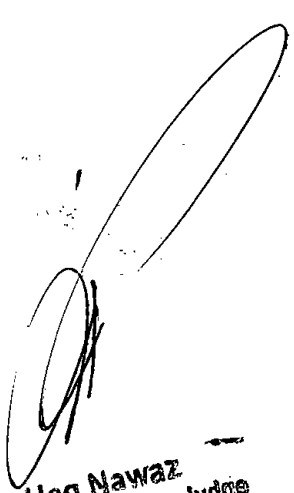
documents to police station through Constable Fazal Hameed for registration of FIR. He pointed out the place of occurrence to the IO on his arrival to the spot and shown the case property to him in sealed condition along with the accused. Thereafter, he took the case property and the accused to police station and handed over the same to Moharrir. He later on submitted complete challan Ex. PW 3/5 against the accused after completion of investigation. The PW verified the contents of all the documents prepared by him and submitted that the same are correct and correctly bear his signatures.

IV. The Constable Fazal Hameed appeared before the Court as PW-4. He is marginal witness to the recovery memo Ex. PW 3/2 vide which the complainant took into possession the recovered contraband from the possession of accused. After reproducing the prosecution's story in his statement, he verified the contents of recovery memo and submitted that it correctly bears his signature. He further stated that he carried out videography of the occurrence and took the Murasila to police station for registration of FIR.


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His statement was recorded by the IO u/s 161 CrPC.

- V. Lastly, the Investigating Officer Muhammad Riaz 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. He prepared the site plan Ex. PW 5/2 on the pointation of complainant and recorded the statements of witnesses u/s 161 CrPC. He produced the accused before the Court of Judicial Magistrate on 14.07.2025 vide application Ex. PW 5/3 for obtaining physical custody of the accused and one-day custody was granted. He again produced the accused before the Court of Judicial Magistrate on 15.07.2025 for recording his confessional statement but the accused refused to confess his guilt and was sent to Judicial Lock-Up. The IO sent the test samples to FSL along with an application to FSL authorities Ex. PW 5/5 and route permit Ex. PW 5/6 on 15.07.2025 through constable Khalil Rehman. The FSL result of recovered contraband was placed on file by him which is Ex. PW 5/7. The PW also placed on file previous FIRs

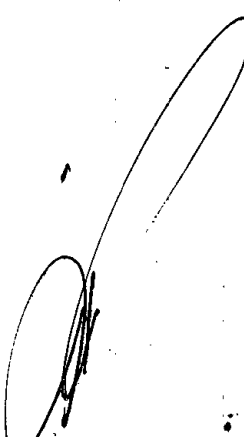

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regarding involvement of the accused in similar cases which are Ex. PW 5/8 and Ex. PW 5/9. He submitted the case file to SHO for onward proceedings after completion of investigation. He admitted the contents of the documents prepared by him to be correct with verification of his signatures thereupon.

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 opted not to produce any evidence in defence but recorded his statement on oath. I have heard learned Sr. PP and counsel for the accused.

5. The learned Sr. PP argued that the accused was apprehended with huge quantity of narcotics. The prosecution remained successful to establish safe transmission of the case property from the spot to police station and sending samples to FSL from police station through reliable evidence. The FSL report is in positive. There is no material contradiction in the statements of PWs in spite of sufficient cross examination by the defence counsel. He, therefore, requested for conviction of the accused.

6. On the other hand, the learned counsel for the defence submitted that the prosecution has failed miserably to prove the case through cogent evidence due to major and material contradictions in the statements of PWs. He submitted that


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the Seizing Officer and marginal witness have contradicted each other regarding recovery of CNIC from the accused. The registration documents of the crime vehicle have not been recovered. According to PW-3, the Murasila was handed over to Moharrir whereas the recipient of the Murasila was Madad Moharrir. The original register No. 19 was not produced before the Court and the record is silent regarding shifting of the case property to District Malkhana. The time of report and the time of departure of the PW-4 from the spot to police station for taking Murasila is same which creates doubts in the prosecution's case. The route certificate Ex. PW 5/6 does not bear the receiving stamp of FSL. Particulars of the case were not scribed on the crime vehicle. The videography was not subjected to forensic analysis. Further that, the Seizing Officer and IO contradicted each other about existence of Abadi near the place of occurrence. He finally submitted that the accused was arrested about six-days before the date of occurrence and was kept in illegal confinement. He was subjected to physical torture with the allegations that he has given an amount of Rs. 03 lacs to someone for the murder of SHO. Upon the denial of accused, he was implicated in the present case. He, therefore, requested that the accused be acquitted from the charges levelled against him.

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7. After hearing both the parties and perusal of the record, it was found that though the accused recorded his on oath statement regarding the allegations of his illegal confinement for six-days before the occurrence but he neither produced any witness in his support from the alleged place of his arrest near a hotel in Mishti Mela where private persons were present, as admitted by the accused, nor any application was moved on his behalf by anyone regarding his illegal confinement. Similarly, no complaint was made to the Judicial Magistrate by the accused at the time of his production before the Court. The other arguments advanced by learned counsel for the accused do not question the recovery of narcotics from the possession of accused. So far, the existence of Abadi near the place of occurrence is concerned, as stated by the Seizing Officer in his cross examination as PW-3 and denied by the IO in his statement as PW-5, the perusal of site plan Ex. PW 5/2 shows that the place of occurrence is surrounded by fields of village Tagha Sam on both sides of north and south with no houses; however, the fields of village lead to the existence of Abadi beyond the fields on north and south of the place of occurrence.

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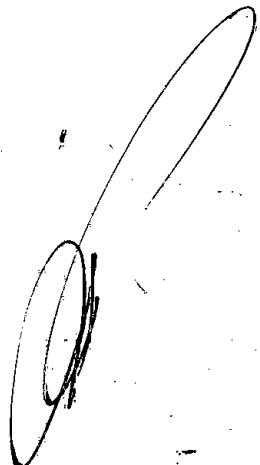
8. According to the prosecution's case, the incident was taken place on 13.07.2025 at Tagha Sam main road Mishti Mela to Dabori at 1600 hours when the local police intercepted a without number motorcycle having a white bag on its fuel

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tank. The search of the sack led to the recovery of 10 packets of chars whereas 75 grams of Ice was recovered from right side pocket of the accused in a white plastic envelope. the recovery was effected through recovery memo Ex. PW 3/2 and the Murasila Ex. PW 3/4 was sent to Police Station for registration of FIR. The Murasila carrier appeared before the Court as PW-4. He reiterated the prosecution's story in his statement and submitted that the recovery was effected in his presence. His statement has corroborated the statement of Seizing Officer, who appeared before the Court as PW-3 who shifted the case property in sealed condition, the crime vehicle and accused to police station. The Moharrir, in his statement before the Court as PW-2, deposed about receipt of Murasila as well as case property from the PW-4 and PW-3 respectively. He kept the same in Malkhana and parked the crime vehicle in the police station, after making its entries in register No. 19 Ex. PW 2/3. The original register No. 19 was produced before the Court and returned to the witness. He further submitted that the sample parcels No. 1 and 3 to 12 were handed over by him for its transmission to FSL on 15.07.2025. He maintained the departure and arrival of the concerned police officials in the Daily Diaries Ex. PW 2/4. The Parcel Carrier, in his statement before the Court, submitted as PW-1 that he was handed over the sample parcels by the IO on 15.07.2025 which he took to FSL along



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with application and route certificate. The Investigation Officer produced the FSL report in his statement before the Court as PW-5 as Ex. PW 5/7. According to FSL report, the parcel No. 1 was found to be 'Meth Amphetamine (ICE) with crystal' and parcels No. 3 to 12 were found to be 'chars with brown solid physical appearance'. The PWs were subjected to sufficient cross examination but no material contradiction could be brought on record.

9. The above facts prove the recovery of huge quantity of contraband from the possession of accused and the same was kept in safe custody and was sent to chemical examination within the prescribed period of time. The prosecution also proved the safe custody and its transmission by producing the witnesses in whose custody the property was in the Malkhana and to whom it was sent for chemical examination. All the chains from the recovery of narcotics till sending the same for chemical examination had been proved by the prosecution beyond the reasonable doubt.

10. In view of the foregone discussion, the accused **Raza Badshah** S/O Sakhi Badshah, Caste Mishti, Tapa Mamizai, R/O Village Mir Ghara, District Orakzai is convicted u/s 9 (1) 3 (e) of the Khyber Pakhtunkhwa Control of Narcotic Substances (Amendment) Act, 2025 and sentenced to undergo rigorous imprisonment for a period of ten (10) years with the fine of Rs. 500,000/-. The convict shall suffer simple

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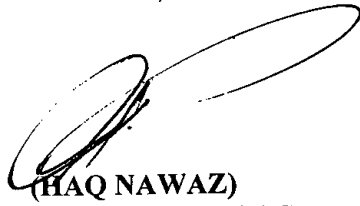
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imprisonment for a period of six (06) months in case of default of payment of fine. He is also convicted u/s 11 (1) 3 of the Khyber Pakhtunkhwa Control of Narcotic Substances (Amendment) Act, 2025 and sentenced to undergo rigorous imprisonment for a period of one (01) year with the fine of Rs. 50,000/-. The convict shall suffer simple imprisonment for a period of three (03) months in case of default of payment of fine. Both the punishments shall run concurrently with the benefit of Section 382-B CrPC. Copy of the judgment is provided to the convict free of cost.

11. The case property in the shape of narcotics be destroyed after the expiry of period of appeal/revision while the motorcycle is confiscated to state. File of this Court be consigned to record room after its necessary completion and compilation.

Announced:
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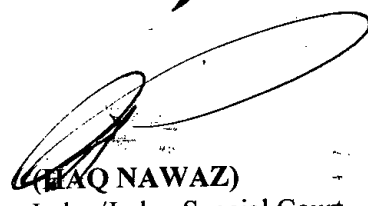

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CERTIFICATE

Certified that this judgement consists of twelve (12) pages.

Each page has been read, corrected wherever necessary and signed by me.

Dated: 09.09.2026


(HAQ NAWAZ)
Sessions Judge/Judge Special Court,
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