

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

SPECIAL CASE NO. : 70/3 OF 2025
DATE OF INSTITUTION : 25.11.2025
DATE OF DECISION : 28.09.2026

STATE THROUGH SHO MUHAMMAD YOUNAS, POLICE STATION
MISHTI MELA

.....(COMPLAINANT)

-VERSUS-

1. SADIQEEEN S/O TANKHA BAZA, CASTE AKA KHEL, SULTAN KHEL, DISTRICT KHYBER
2. IMAM SHAH S/O ZARGHON SHAH, CASTE MALAK DEEN KHEL, KAJORI, DISTRICT KHYBER

..... (ACCUSED FACING TRIAL)

Present : Abul Qasim, Senior Public Prosecutor for State.
: Inam Ullah Shinwari Advocate for accused facing trial.

FIR No. 55
u/s: 9 (1) 3 (e) CNSA

Dated: 02.07.2025
Police Station: Mishti Mela

JUDGEMENT
28.09.2026

This case was registered against the accused **Sadiqeen S/O Tankha Baza, Caste Aka Khel, Sultan Khel, District Khyber** **Imam Shah S/O Zarghon Shah, Caste Malak Deen Khel, Kajori, District Khyber** vide FIR No. 55, Dated 02.07.2025 at Police Station Mishti Mela u/s 9 (1) 3 (e) CNSA.

2. According to averments of the FIR, the SHO Police Station Mishti Mela along with other police contingent laid a barricade at Mandate Road Ada on main road leading from Mishti Mela to Kalaya on 02.07.2025, when a blue Vitz motorcar was coming from Mishti Mela side at 1100 hours. Two persons were disembarked from the front seat of the motorcar. A white bag was found beneath the driving seat of

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STATE VS SADIQUEEN ETC.

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Police Station: Mishti Mela

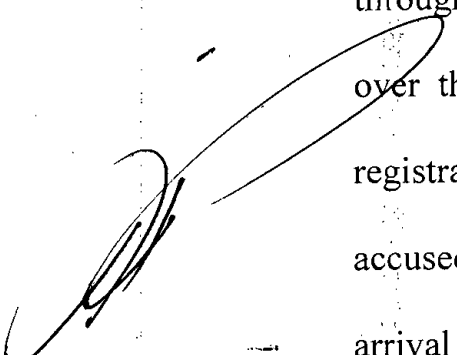
the motorcar which led to the recovery of 05 packets of chars, wrapped in white scotch tape. These packets were numbered from 1 to 5. Similarly, the complainant also recovered 10 packets of chars, wrapped in yellow scotch tape, from a secret cavity in right door of the motorcar and 10 packets of chars, wrapped in yellow scotch tape, from a secret cavity in left front door of the motorcar. These were marked from 6 to 15 and 16 to 25. Likewise, the complainant also recovered 05 packets of chars, wrapped in yellow scotch tape, from a secret cavity in the rear left door of the motorcar and the same was marked from 26 to 30. Each packet of chars was weighed through a digital scale which came out to be 1200 grams each, making a total of 36,000 grams. He separated 10 grams each as sample from the packets which were packed and sealed into parcels No. 1 to 30 for FSL analysis. The remaining 17850 grams of chars in packets No. 1 to 15 along with sack were packed and sealed into parcel No. 31 while rest of 17850 grams of chars in packet No. 16 to 30 were packed and sealed into parcel No. 32. Videography of the occurrence was carried out through Fazal Hameed Constable which was converted into a USB and packed and sealed into parcel No. 33. All the parcels were affixed with 03/03 seals monogram of "MY", while 01/01 monogram was put inside each parcel. The motorcar of blue colour having Registration No. 5788/Khyber, Chassis No. SOP-10-0340492 and Engine No.


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ISZ-FE-997-CC was taken into possession. Driver of the motorcycle disclosed his name as Sadiqeen s/o Tankha Baz while the person seated in the front seat disclosed his name as Imam Shah s/o Zarghon Shah. They were arrested and the Murasila with other documents were sent to police station for registration of FIR.

3. After completion of investigation, complete challan was put in court. The accused were summoned and copies were provided to them under section 265-C CrPC. They were charge sheeted but they pleaded not guilty and claimed trial. The prosecution produced a total of 05 witnesses before the Court. A brief resume of the depositions of the prosecution's witnesses is as under;

- I. Moharrir Muhammad Saeed, appeared before the court as PW-1. He stated that he chalked out FIR Ex. PA upon receiving the Murasila from SHO through Constable Fazal Hameed. He handed over the documents to investigation staff after registration of the FIR. He was handed over the accused and case property by the SHO upon his arrival to police station. He confined the accused in lock-up and kept the case property safely in Malkhana after making entries in register No. 19 Ex. PW-1/1. He handed over parcels No. 31 and 32 to the IO for its production before the Court of


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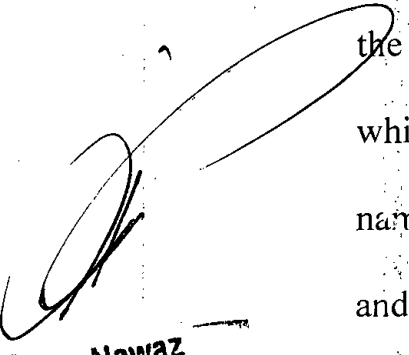
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Judicial Magistrate on 03.07.2025 and parcels No. 1 to 30 to him for its transmission to FSL on 04.07.2025. The PW produced Daily Diaries regarding departure and arrival of police officials which is Ex. PW 1/2. His statements were recorded by the IO u/s 161 Cr. PC.

- II. The complainant, Muhammad Younas SHO, appeared before the court as PW-2. He stated that he along with police contingent Fazal Hameed and Saleem Khan laid a barricade on the spot on 02.07.2025 when a Vitz motorcar came to the place of occurrence from Mishti Mela side at 1100 hours. The vehicle was stopped and the persons occupying the front seat were debordered. The PW recovered a white sack beneath the front seat of the motorcar which led to the recovery of 05 packets chars which were wrapped in white scotch tape. The complainant also recovered 10 packets of chars each, wrapped in yellow scotch tape, from secret cavities in right and left doors of the vehicle. He also recovered 05 packets of chars, wrapped in yellow scotch tape, from a secret cavity in rear left door of the vehicle. The PW weighed the recovered contraband through a digital scale and each packet came out to be 1200

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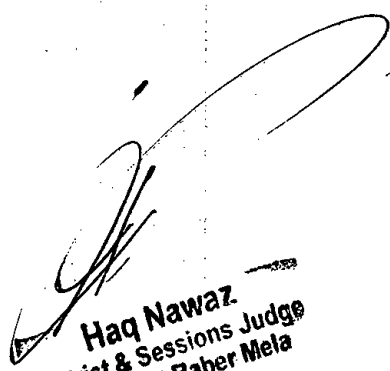
grams, making a total of 36,000 grams. The PW separated 10 grams each from the recovered packets which were packed and sealed into parcels No. 1 to 30 for FSL examination. The remaining quantity of chars in packets No. 1 to 15 along with sack were packed and sealed into parcel No. 31 and packets No. 16 to 30 were packed and sealed in parcel No. 32, which were produced before the Court as Ex. P1 and P2 respectively. Videography of the occurrence was carried out through Fazal Hameed Constable which was converted into a USB and packed and sealed into parcel No. 33, produced before the Court as Ex. P3. All the parcels were affixed with 03/03 seals monogram of "MY", while 01/01 monogram was put inside each parcel. Driver of the motorcar disclosed his name as Sadiqueen while the person seated with him disclosed his name as Imam Shah. The recovered contraband and motorcar were taken into possession by the PW through recovery memo Ex. PW-2/2 in presence of the marginal witnesses. The motorcar was produced before the Court as Ex. P4. The PW arrested the accused and issued their card of arrest Ex. PW-2/3. He drafted the Murasila Ex. PW-2/4


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and handed it over to Constable Fazal Hameed for taking the same to PS for registration of FIR. The IO prepared site plan on the pointation of the PW. On return to PS, the PW handed over the case property along with accused to Moharrir. After completion of investigation, he submitted complete challan which is Ex. PW-2/5. He finally referred to the documents prepared by him to be correct which correctly bear his signatures.

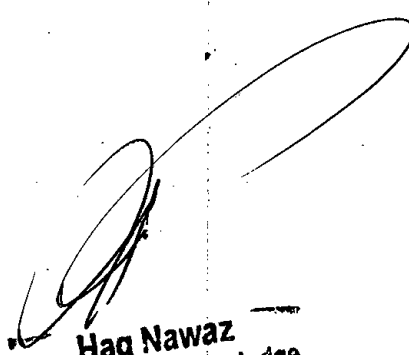
III. The Constable Fazal Hameed, appeared before the Court as PW-3. He submitted that the complainant took into possession the recovered contraband and the motorcar through the recovery memo Ex. PW 2/2 in his presence. He reiterated the prosecution's story in his statement and verified the contents of the recovery memo and submitted that it correctly bears his signature. The PW further stated that he made videography of the occurrence and took the Murasila to police station for registration of FIR. His statement was recorded by the IO u/s 161 CrPC.

IV. Constable Khalil Rehman stood in the witness box as PW-4. He stated that he took the parcels No. 1 to 30 to FSL for chemical analysis on 04.07.2025. He handed over receipt of the parcels


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to IO upon his return from FSL. His statement was recorded by the IO u/s 161 CrPC.

- V. The Investigating Officer, Muhammad Hanif, was examined as PW-5. He stated that after entrustment of investigation in the instant case, he proceeded to the spot where the complainant showed him the case property and the accused. The IO prepared the site plan Ex. PW-5/2 on the pointation of complainant. He recorded statements of the witnesses u/s 161 CrPC on the spot. The IO produced the accused before the Court of Judicial Magistrate on 03.07.2025 vide application Ex. PW-5/3 for obtaining their physical custody and one-day physical custody was granted. The IO interrogated the accused who confessed their guilt before him. He produced the accused before Judicial Magistrate vide application Ex. PW-5/4 on 04.07.2025 for further custody, but his request was turned down and the accused were sent to Judicial Lock-up. During the investigation, the accused Sadiqeen admitted the ownership of the motorcar. The IO recorded his statement. He sent parcels No. 1 to 30 along with route permit Ex. PW-5/6 and application addressed to the FSL authority Ex. PW 5/5 on


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04.07.2025 through constable Khalil Rehman.

The FSL report was produced by the IO as Ex.

PW-5/7. The PW submitted applications Ex. PW

5/8 and Ex. PW 5/9 to SP Investigation for

verification of the motorcar. He also produced the

FSL report regarding the motorcar which is Ex.

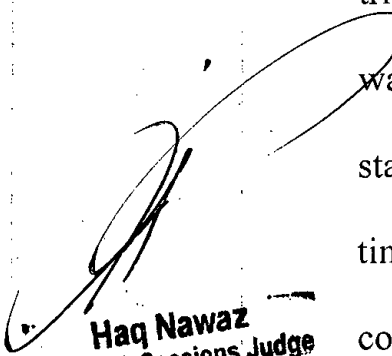
PW 5/10. He submitted the case file to SHO after

completion of investigation for onward

proceedings.

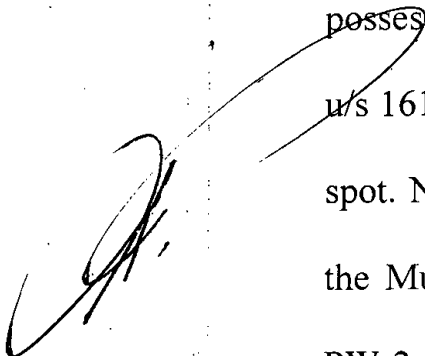
4. After completion of prosecution's evidence, statements of the accused were recorded u/s 342 Cr.P.C. The accused claimed innocence; however, they neither wished to be examined on oath nor opted to produce any evidence in defence. I have heard learned Sr. PP and counsel for the accused.

5. The learned Sr. PP submitted that in order to prove its case, the prosecution produced 05 witnesses during the course of trial. It has sufficiently been proved that the case property was safely transmitted from the place of occurrence to police station and its samples were sent to FSL within the prescribed time. The FSL report has established that the recovered contraband was chars. The accused Sadiqueen admitted ownership of the motorcar through which the contraband was being trafficked and the accused Imam Shah was sitting in the said vehicle having conscious knowledge of the entire scenario. The PWs remained consistent and reliable in their


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testimonies. There is no material contradiction in the statements of the PWs to create any doubt in the prosecution's case. He requested that the accused may be convicted.

6. On the other hand, the learned defence counsel presented his written arguments with the submissions that the occurrence was taken place at 1100 hours but the FIR was chalked out at 1320 hours with the delay of more than two hours besides the fact of distance of only 02-03 km between the place of occurrence and the police station and spending about 35 minutes on preparation of the documents by the complainant as stated by PW-2. It was further submitted that register No. 19 is not in printed form and no official acknowledgement of the FSL authorities is available on route certificate. Similarly, neither driving license was recovered from the accused nor the documents of ownership of the vehicle were taken into possession. The marginal witness, in his statement recorded u/s 161 CrPC, has not mentioned the arrival of the IO to the spot. No Daily Diary, in respect of arrival and departure of the Murasila Carrier, is available on record. According to PW-2, CNIC and mobile of the accused were recovered but the same were not taken into possession through recovery memo. The said witness does not know the exact time spent on weighing of contraband and separation of samples. According to the Seizure Officer and marginal witness of the


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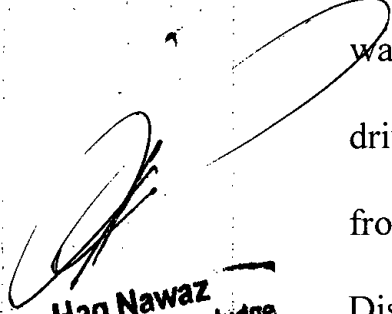
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recovery memo, window of the motorcar was half open which negates the accommodation of contraband in the door. The application for FSL was not drafted by the Seizing Officer nor he prepared inventory of the vehicle in question. He has also not signed register No. 19. The marginal witness to the recovery memo has made dishonest improvements in his statement before the Court. He has not named any other police official in his statement besides the Seizing Officer and Constable Saleem. His statement is contradictory to his statement u/s 161 CrPC regarding colour of the scotch tape. He has also not mentioned vehicle number in his examination in chief. The point of videography was not pointed out to the IO and it was not disclosed that how the case property was shifted to police station. The statement of the FSL carrier is silent about the official who handed over the samples to IO and the documents taken by him with the samples. His signature was also not obtained on register No. 19. The Investigation Officer has not obtained CDR of the accused to confirm their presence on the spot at the relevant time. It was submitted that the said deficiencies make the prosecution's case full of doubts; therefore, the accused were requested to be acquitted.

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7. After hearing both the parties and perusal of the record, it was found that the occurrence was taken place on 02.07.2025 at 1100 hours at main road Mishti Mela to Kalaya at Mandrey

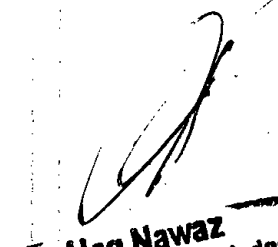
Adda when the Seizing Officer along with police contingent were present at a barricade and vehicle No. 5788/Khyber came there. The search of the motorcar led to the recovery of a white sack beneath the driver seat containing five packets of chars wrapped in white scotch tape. Ten packets of chars were recovered from the driver door of the motorcar which were wrapped in yellow scotch tape whereas ten packets of chars wrapped in yellow scotch tape were recovered from the left front door. Five packets of chars wrapped in yellow scotch tape were also recovered from the rear left door. Each packet was found to be 1200 grams on weighment, making a total of 36,000 grams. The samples of 10 grams each were separated from each packet and the same were sealed in parcels No. 1 to 30. The remaining 17850 grams of contraband each were packed and sealed into parcels No. 31 and 32. Videography of the occurrence was carried out which was converted into USB and sealed into parcel No. 33. The driver of the vehicle disclosed his name as Sadiqeen and the front seater was found to be Imam Shah, both residents of District Khyber. The Murasila was sent to police station at 1300 hours. The search of the vehicle, the recovery of 30 packets of contraband from different parts of the vehicle, its weighment, separation of samples, and sealing the same in separate parcels with preparation of documents justify the delay of two hours in the report.


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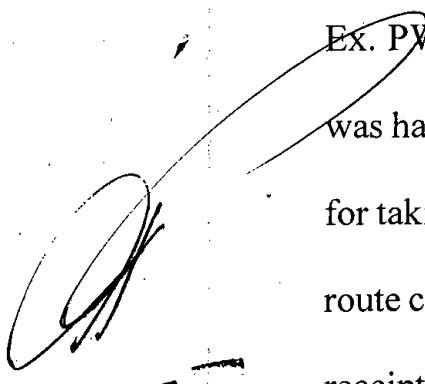
8. The Murasila Carrier appeared before the Court as PW-3. He not only supported the statement of Seizing Officer/PW-2 but further stated that the recovery was effected by the Seizing Officer through recovery memo in presence of both the marginal witnesses. The Murasila, recovery memo and card of arrest were handed over to him for its transmission to police station. He took it to police station and handed over to Moharrir Saeed. The Moharrir appeared before the Court as PW-1. He deposed that the FIR Ex. PA was chalked out by him upon receipt of the Murasila through PW-3. He further submitted that on the return of Seizing Officer to police station, he handed over the accused, motorcar and parcels No. 1 to 33 to him. He locked both the accused in lock-up of the police station and kept the parcels in Malkhana of the police station after making necessary entries in register No. 19 Ex.

PW 1/1. On the next day on 03.07.2025, the PW-1 handed over parcels No. 31 and 32 to the IO for production before the Court of Judicial Magistrate. He also handed over parcels No. 1 to 30 to IO on 04.07.2025 for its onward transmission to FSL Peshawar.

9. The Seizing Officer reproduced the prosecution's story in his statement as PW-2. He produced the remaining contraband in parcels No. 31 and 32 before the Court as Ex. P1 and Ex. P2. The videography of the occurrence was also produced before the Court in a USB in parcel No. 33 as Ex. P3. The


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motorcar was produced before the Court as Ex. P4. He submitted that the driver of the motorcar disclosed his name to him as Sadiqueen while the front seater disclosed his name as Imam Shah. The recovered contraband along with motorcar were taken into possession by him through recovery memo Ex. PW 2/2. The accused were arrested through card of arrest Ex. PW 2/3 whereafter he drafted the Murasila Ex. PW 2/4. He handed over the Murasila, recovery memo and card of arrest to PW-3 for taking the same to police station. On the arrival of IO, the PW-2 pointed out the place of occurrence to him, who prepared site plan on his pointation. He thereafter returned to the police station and handed over the case property as well as the accused to Moharrir. After completion of investigation, he submitted complete challan Ex. PW 2/5 against the accused. The PW-4 deposed that he was handed over parcels No. 1 to 30 by the IO on 04.07.2025 for taking the same to FSL along with application to FSL and route certificate. He deposited the same in FSL against proper receipt.


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10. The IO, in his statement before the Court as PW-5, deposed that he prepared the site plan Ex. PW 5/2 on the pointation of Seizing Officer. He recorded statements of the PWs and produced the accused and parcels No. 31 and 32 before the Area Judicial Magistrate on 03.07.2025 and 04.07.2025 vide applications Ex. PW 5/3 and Ex. PW 5/4. He further stated

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that the accused Sadiqueen disclosed himself to be owner of the vehicle No. 5788/Khyber. He placed on file an agreement of sale in respect of the vehicle in question between one Khalid Khan and accused Sadiqueen. Though the accused Sadiqueen denied the ownership of vehicle in question in his statement recorded u/s 342 CrPC, but his brother Khaista Meen claimed ownership of the same in Superdari Application No. 114/4 of 2025, which was allowed by the Court of Judicial Magistrate on 19.08.2025. These facts prove the stance of prosecution regarding ownership of the vehicle by the accused or his brother and it was in possession of the accused at the relevant time.

11. The IO collected parcels No. 1 to 30 from the Moharrir on 04.07.2025 and handed over the same to PW-4 along with application to FSL Ex. PW 5/5 and route certificate Ex. PW 5/6. He placed on file the FSL report Ex. PW 5/7. He also submitted application Ex. PW 5/8 to SP Investigation for correspondence with all the DPOs to ascertain the status of stealing of the motorcar. Similarly, application Ex. PW 5/9 was sent to Director FSL for chemical analysis of the motorcar in question. The FSL report was received by the IO and placed on file as Ex. PW 5/10. The FSL report Ex. PW 5/7 confirms the recovered contraband to be chars with brown solid physical appearance whereas the FSL report Ex. PW 5/10 shows that no other number was deciphered in the

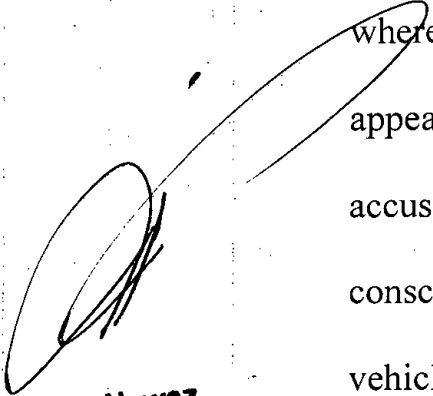
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chassis number of the motorcar in question. All the PWs were subjected to sufficient cross examinations but nothing to the benefit of the accused was brought on record.

12. The above facts have sufficiently proved that both the accused, who are belonging to District Khyber, were intercepted at a barricade at the relevant place by the local police. The search of the vehicle led to the recovery of a total of 36,000 grams of chars which were kept in different parts of the vehicle secretly. Samples were separated from each packet on the spot and packed in parcels No. 1 to 30. The contraband, the vehicle and the accused were safely transmitted to police station where the same were kept safely in Malkhana and handed over to IO for further legal action and transmission to FSL within the prescribed period of time.

The samples were transmitted to FSL and deposited there

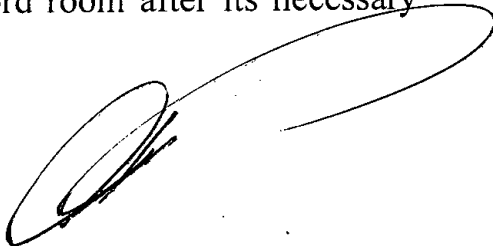
where it was found to be chars with brown solid physical appearance after subjecting to chemical analysis. Both the accused, being residents of the same area, seem to have had conscious knowledge of the presence of contraband in the vehicle. Both of the accused **Sadiqeen** S/O Tankha Baza, Caste Aka Khel, Sultan Khel, District Khyber and **Imam Shah** S/O Zarghon Shah, Caste Malak Deen Khel, Kajori, District Khyber are, therefore, convicted under Section 9 (1) 3 (e) of the Khyber Pakhtunkhwa Control of Narcotic Substances Act and sentenced to life imprisonment with the


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fine of Rs. 800,000/- each. The convicts shall suffer simple imprisonment for a period of six (06) months in case of default of payment of fine. The benefit of section 382-B CrPC is extended to them. The accused Imam Shah is on bail. He be taken into custody and sent to Sub-Jail, Orakzai to serve the sentence. Copy of the judgment is provided to the convicts free of cost.

13. The case property in the shape of narcotics be destroyed after the period provided for appeal/revision. The motorcar, Ex. P4, was handed over to Khaista Ameen, brother of the accused Sadiqeen. He shown his inability to produce the vehicle due to operation in the area of their residence. The same is confiscated to state and notice be issued to sureties of Khaista Ameen separately for production of the confiscated vehicle or forfeiture of their bail bonds. File of this Court be consigned to record room after its necessary completion and compilation.

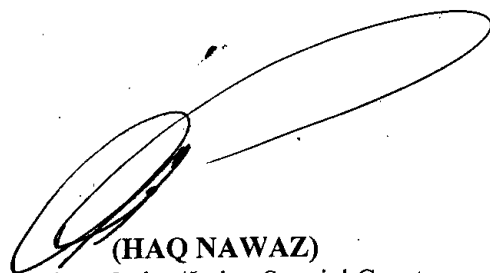
Announced:
28.09.2026


(HAQ NAWAZ)
Sessions Judge/Judge Special Court,
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CERTIFICATE

Certified that this judgement consists of sixteen (16) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 28.09.2026


(HAQ NAWAZ)
Sessions Judge/Judge Special Court,
Orakzai at Baber Mela