

STATE VS SABIR ALI
 FIR No. 08 | Dated: 10.02.2025 | U/S: 9 (d) CNSA |
 Police Station: Kurez Boya

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

SPECIAL CASE NO. : 12/3 OF 2025
 DATE OF ORIGINAL : 07.04.2025
 DATE OF DECISION : 29.09.2026

STATE THROUGH SHO, MUJAHID KHAN, POLICE STATION
 KUREZ BOYA

.....(COMPLAINANT)

-VERSUS-

SABIR ALI S/O SAHIB ALI, CASTE MANI KHEL, DISTRICT
 ORAKZAI

..... (ACCUSED)

Present : Abul Qasim, Senior Public Prosecutor for the State.
 : Muhammad Asim Advocate for accused.

FIR No. 08 **Dated:** 10.02.2025 **U/S:** 9 (d) of the Khyber
 Pakhtunkhwa Control of Narcotic Substances Act, 2019
Police Station: Kurez Boya

JUDGEMENT
 29.09.2026

This case was registered against the accused **Sabir Ali S/O**
Sahib Ali, Caste Mani Khel, District Orakzai vide FIR No. 08,
 Dated 10.02.2025 at Police Station Kurez Boya u/s 9 (d) of
 the Khyber Pakhtunkhwa CNSA, 2019.

2. According to averments of the FIR, the SHO Police Station
 Kurez Boya along with police contingent, during surveillance
 duty in the area, laid a barricade near Starsam Check-Post on
 10.02.2025 when a white Suzuki bearing Registration No. B-
 9585/Kohat arrived there at 0930 hours. The vehicle was
 stopped and the driver was disembarked. A blue plastic
 envelope was found beneath the driver's feet. The search of
 said envelope led to the recovery of 04 packets of chars,

Haq Nawaz
 District & Sessions Judge
 Orakzai at Baber Mela

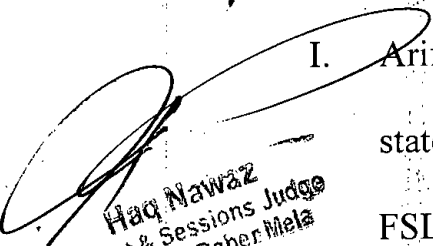
67

wrapped in yellow scotch tape. Each packet was found to be 1000 grams, making a total of 4,000 grams of chars. The complainant separated 10 grams each as sample from the recovered packets and sealed it into parcels No. 1 to 4. The remaining 3960 grams along with the envelope was packed and sealed into parcel No. 5. Videography of the occurrence was carried out and sealed into parcel No. 6 by affixing the monogram of "MK" on the same. The Murasila and other documents were sent to police station; hence, the present FIR was registered.

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 06 witnesses. A brief resume of the depositions of the prosecution witnesses is as under;

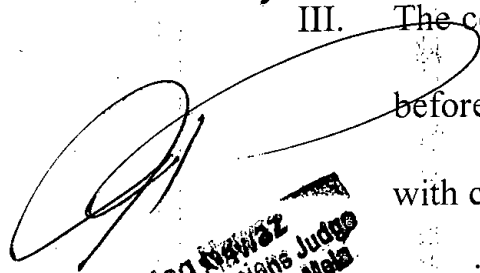
I. Arif Gul stood in the witness box as PW-1. He stated that he took the parcels No. 1 to 4 and 6 to FSL for chemical analysis on 12.02.2025. He handed over the receipt of the parcels and parcel No. 6 to IO upon his return from FSL. His statement was recorded by the IO u/s 161 CrPC.

II. Moharrir Libab Ali appeared in the witness box as PW-2. He stated that he incorporated the contents


Haq Nawaz
District & Sessions Judge
Orakzai at Baber Mela

of Murasila into FIR Ex. PA. He received the case property from the complainant in duly packed and sealed condition which was kept by him in Malkhana safely whereas the vehicle was parked by him in the police station. He made entries of the same in Register No. 19 Ex. PW 2/1. He handed over parcel No. 5 to the IO for its production before the court of Judicial Magistrate on 11.02.2025. He also handed over the test samples in parcels No. 1 to 4 to the IO for transmitting it to FSL on 12.02.2026. The PW made entries in the daily diary Ex. PW 2/2. His statements were recorded by the IO u/s 161 CrPC.

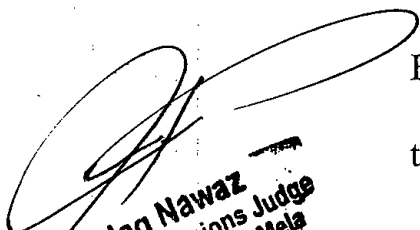
III. The complainant, SHO, Mujahid Khan, appeared before the court as PW-3. He stated that he along with constables Baqir Ali and Junaid Ali were on surveillance duty in the area in their official vehicle driven by driver Farhad Ali and laid barricade near Starsam Check-Post on 10.02.2025. A white Suzuki bearing No. B9585/Kohat was intercepted at 0930 hours and the driver was deboarded. The complainant found a blue plastic envelope beneath the driver's feet which led to the recovery of 04 packets of chars. The PW separated 10 grams from each packet for


Magistrate
District & Sessions Judge
Faisalabad at Bahar Mela

69

STATE VS SABIR ALI
FIR No. 08 | Dated: 10.02.2025 | U/S: 9 (d) CNSA |
Police Station: Kurez Boya

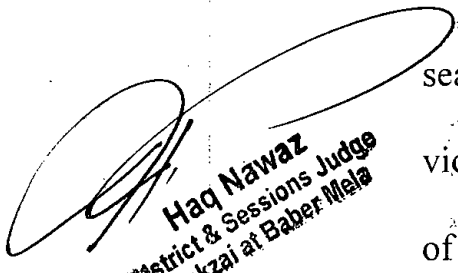
FSL examination which were packed and sealed into parcels No. 1 to 4. The remaining 3960 grams along with the envelope was sealed into parcel No. 5. Driver Farhad Ali carried out videography of the occurrence which was sealed by the complainant into parcel No. 6. Three monograms of "MK" were affixed on the parcels. The accused disclosed his name as Sabir Ali. The recovery was affected through recovery memo Ex. PW 3/1. The complainant issued card of arrest of the accused which is Ex. PW 3/2. He prepared the Murasila Ex. PW 3/3 and sent it along with other documents to police station through Constable Baqir Ali 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 along with the accused to him. Thereafter, the complainant took the accused and case property to police station and handed it over to Moharrir. He submitted complete challan Ex. PW3/4 against the accused after complete of investigation. He verified the contents of all the documents prepared by him and submitted that his signatures are correctly affixed on the same.


Haq Nawaz
District & Sessions Judge
Orakzai at Baber Mela

IV. The Constable Baqir Ali is PW-4. He is marginal witness to the recovery memo Ex. 3/1 vide which the complainant took into possession the recovered contraband. He verified the contents of recovery memo and submitted that it correctly bears his signature. He further stated that he took the Murasila to police station for registration of FIR.

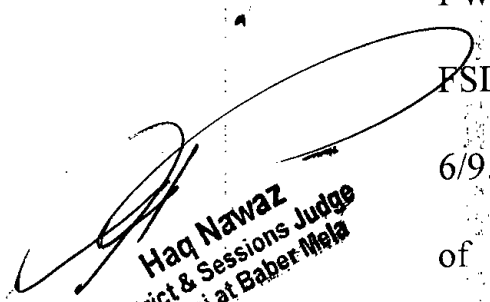
V. Farhad Ali appeared before the Court and recorded his statement as PW-5. He stated that he was present with the SHO on the spot on 10.02.2025 when he intercepted a Suzuki driven by the accused. The complainant started search of the vehicle and the PW made videography of the occurrence through the mobile of SHO which was sealed in parcel No. 6. His statement was recorded by the IO u/s 161 CrPC.

VI. Lastly, Investigating Officer Mohsin Ali was examined as PW-6. He stated that after entrustment of the investigation to him in the instant case, he proceeded to the spot and prepared the site plan Ex. PW 6/2 on the pointation of complainant. He recorded the statements of witnesses on the spot. The PW produced the accused before the court of Judicial Magistrate


Haq Nawaz
District & Sessions Judge
Orakzai at Baber Mala

71

vide application Ex. PW 6/3 on 11.02.2026 for obtaining physical custody of the accused and one-day custody was granted. He again produced the accused before the court of Judicial Magistrate vide application Ex. PW 6/4 on 12.02.2026 for recording confessional statement of the accused, but the accused refused and he was sent to judicial lock-up. The PW also sent the test samples in parcels No. 1 to 4 and the USB in parcel No. 6 to FSL along with application Ex. PW 6/5 and Ex. PW 6/6 and route certificates Ex. PW 6/7 and Ex. PW 6/8 on 12.02.2025 through Arif Gul SI. The FSL result was placed on file by him as Ex. PW 6/9. The PW recorded the statement of the owner of the vehicle namely Liaqat Hussain. He submitted the case file to SHO for onward proceedings after completion of investigation.

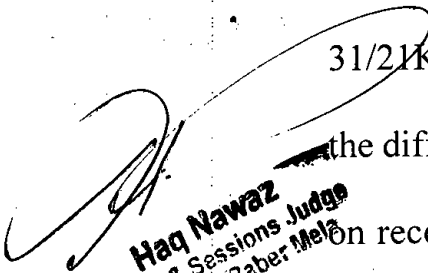

Haq Nawaz
District & Sessions Judge
Qarkzai at Baher Mela

4. After completion of prosecution's evidence, statement of the accused was recorded u/s 342 Cr.P.C. He 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. The learned Sr. PP argued that the accused was apprehended with huge quantity of narcotics in his possession. The prosecution remained successful to establish safe

transmission of the case property from the spot to police station and sending samples to FSL from the police station. 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.

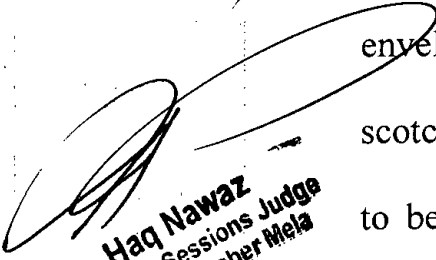
6. On the other hand, the learned counsel for the accused submitted that according to PW-6, the sample parcels No. 1 to 4 and USB of videography in parcel No. 6 were taken to FSL by Arif Gul but the application to FSL for chemical analysis of the USB Ex. PW 6/6 bears the name of Parcel Carrier as Khial Hussain. The said application also bears receipt No. 21/21KB Dated 03.02.2025 instead of receipt No. 31/21KB Ex. PW 6/8 Dated 12.02.2025. The PW-4 admits the difference of his signature on his CNIC with his signature on recovery memo. There is contradiction in the statements of PW-3 and PW-4 regarding their return to police station at 1300 and 1320 hours. He, therefore, requested for acquittal of the accused.

7. After hearing both the parties and perusal of the record, it was found that though the name and number of Parcel Carrier and route permit are mentioned incorrect in respect of parcel No. 6 containing USB of videography of the occurrence in application to FSL Ex. PW 6/6, but no such difference was found in respect of parcels No. 1 to 4 containing 10 grams


Haq Nawaz
District & Sessions Judge
Orakzai at Sabar Mela

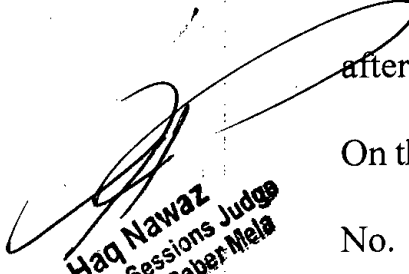
samples separated from the recovered contraband. The statement of IO/PW-6, the application to FSL Ex. PW 6/5 and FSL report Ex. PW 6/9 are consistent about the fact that the parcels were taken to FSL by Arif Gul/PW-1. Though the PW-4 has admitted the difference of his signature on his CNIC with his signature on the recovery memo, but he categorically owned both the signatures to be affixed by him. The difference of 20 minutes between the statements of PW-3 and PW-4 regarding their arrival to police station is neither material nor fatal for the present case.

8. The occurrence was taken place on 10.02.2025 at 0930 hours near Starsam Check-Post when the Seizing Officer along with police contingent were present at a barricade at the place of occurrence and vehicle No. B-9585/Kohat came there. The search of the vehicle led to the recovery of a blue plastic envelope containing four packets of chars, wrapped in yellow scotch tape, beneath the feet of driver. Each packet was found to be 1000 grams on weighment, making a total of 4000 grams. The samples of 10 grams each were separated from each packet and the same were sealed in parcels No. 1 to 4. The remaining 3960 grams of contraband along with the envelope were packed and sealed into parcel No. 5. Videography of the occurrence was carried out which was converted into USB and sealed into parcel No. 6. The driver of the vehicle disclosed his name as Sabir Ali.

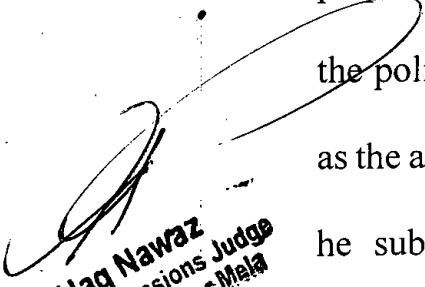

Haq Nawaz
District & Sessions Judge
Orakzai at Baber Mela

74

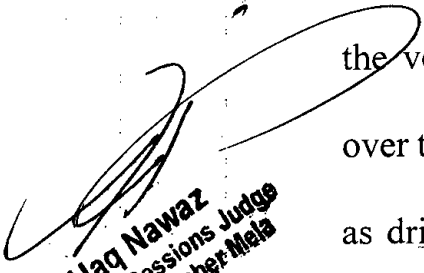
9. During the course of evidence, the Murasila Carrier appeared before the Court as PW-4. He not only supported the statement of Seizing Officer/PW-3 but further stated that the recovery was effected by the Seizing Officer through recovery memo in presence of both the marginal witnesses. The Murasila, recovery memo and card of arrest were handed over to him for its transmission to police station. He took it to police station. The Moharrir appeared before the Court as PW-2. He deposed that the FIR Ex. PA was chalked out by him upon receipt of the Murasila through PW-4. He further submitted that on the return of Seizing Officer to police station, he handed over the accused, vehicle and parcels No. 1 to 6 to him. He locked 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 2/1.
- On the next day on 11.02.2025, the PW-2 handed over parcel No. 5 to the IO for production before the Court of Judicial Magistrate. He also handed over parcels No. 1 to 4 and 6 to IO on 12.02.2025 for its onward transmission to FSL Peshawar. The parcel No. 6 was returned to him without forensic analysis whereas receipt of parcels No. 1 to 4 was handed over to him. The PW made entries in Daily Diaries on 10.02.2025 and 12.02.2025 which are Ex. PW 2/2 and 2/3.
10. The Seizing Officer reproduced the prosecution's story in his statement as PW-3. He produced the remaining contraband


Haq Nawaz
District & Sessions Judge
Orakzai at Baber Mela

in parcel No. 5 before the Court as Ex. P1. The videography of the occurrence was also produced before the Court in a USB in parcel No. 6 as Ex. P2. The vehicle was produced before the Court as Ex. P3. He submitted that the driver of the vehicle disclosed his name to him as Sabir Ali. The recovered contraband along with vehicle were taken into possession by him through recovery memo Ex. PW 3/1. The accused was arrested through card of arrest Ex. PW 3/2 whereafter he drafted the Murasila Ex. PW 3/3. He handed over the Murasila, recovery memo and card of arrest to PW-4 for taking the same to police station. On the arrival of IO, the PW-3 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 3/4 against the accused. The PW-1 deposed that he was handed over parcels No. 1 to 4 by the IO on 12.02.2025 for taking the same to FSL along with application to FSL Ex. PW 6/5 and route certificate Ex. PW 6/7. He deposited the same in FSL against proper receipt. The video-maker also appeared before the Court as PW-5. He deposed that the videography of the occurrence was carried out by him with the mobile set of the Seizing Officer.


Haq Nawaz
District & Sessions Judge
Orakzai at Baber Mala

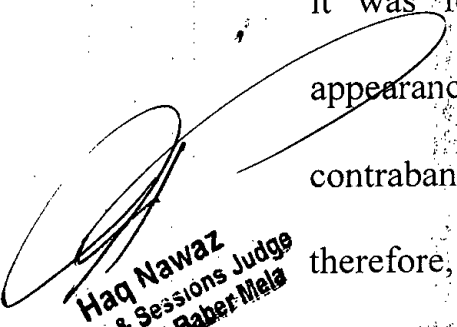
11. The IO, in his statement before the Court as PW-6, deposed that he prepared the site plan Ex. PW 6/2 on the pointation of Seizing Officer. He recorded statements of the PWs and produced the accused and parcel No. 5 before the Area Judicial Magistrate on 11.02.2025 and 12.02.2025 vide applications Ex. PW 6/3 and Ex. PW 6/4. He collected parcels No. 1 to 4 from the Moharrir on 12.02.2025 and handed over the same to PW-1 along with applications to FSL Ex. PW 6/5 & Ex. PW 6/6 and route certificates Ex. PW 6/7 & Ex. PW 6/8. He placed on file the FSL report Ex. PW 6/9 which confirms the recovered contraband to be chars with brown solid physical appearance. The IO recorded the statement of one Liaqat Hussain who admitted ownership of the vehicle with the submission that the same was handed over to the accused on monthly remuneration of Rs. 15,000/- as driver. The IO also inquired about the ownership of the vehicle from Excise and Taxation Officer, Kohat vide letter dated 17.02.2025. The office concerned vide letter dated 19.02.2025 confirmed the ownership of Liaqat Hussain as stated by the IO.


Haq Nawaz
District & Sessions Judge
Orakzai at Bahar-Mela

12. The PWs were subjected to sufficient cross examinations but nothing to the benefit of the accused was brought on record except the difference of 20 minutes between the statements of PW-3 and PW-4 with regard to return of the police party to the police station, which is not so material as stated earlier.

77

13. The above facts have sufficiently proved that the accused was 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 4,000 grams of chars under the feet of the accused/driver of the vehicle No. B-9585/Kohat. Samples were separated from each packet on the spot and packed in parcels No. 1 to 4. The Murasila and other documents were immediately transmitted to police station where the FIR was chalked out. The contraband, the vehicle and the accused were safely shifted 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. The contraband, being recovered under the feet of the accused; therefore, the accused was in conscious knowledge of the presence of narcotics in the vehicle. The accused **Sabir Ali** S/O Sahib Ali, Caste Mani Khel, District Orakzai is, therefore, convicted under Section 9 (d) of the Khyber Pakhtunkhwa Control of Narcotic Substances Act and sentenced to four (04) years rigorous imprisonment with the fine of Rs. 500,000/-. The convict 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


Haq Nawaz
District & Sessions Judge
Orakzai at Baber Mela

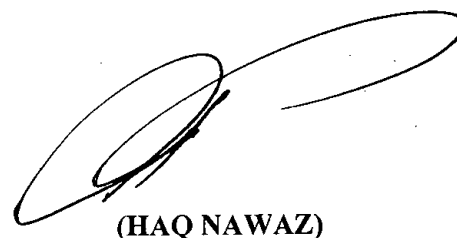
78

STATE VS SABIR ALI
FIR No. 08 | Dated: 10.02.2025 | U/S: 9 (d) CNSA |
Police Station: Kurez Boya

CrPC is extended to him. The accused is on bail. He be taken into custody and be sent to Sub-Jail, Orakzai to serve the sentence. Copy of the judgment is provided to the convict free of cost.

14. The case property in the shape of narcotics be destroyed after the period provided for appeal/revision. The vehicle, Ex. P3, has already been returned to the lawful owner on Superdari. Since, no secret cavity was found in the vehicle nor there is anything available on record about knowledge of the owner in respect of transportation of narcotics through the vehicle in question; therefore, the same be returned to him. The Superdari bonds are cancelled and the sureties are discharged from its liabilities. File of this Court be consigned to record room after its necessary completion and compilation.

Announced:
29.09.2026



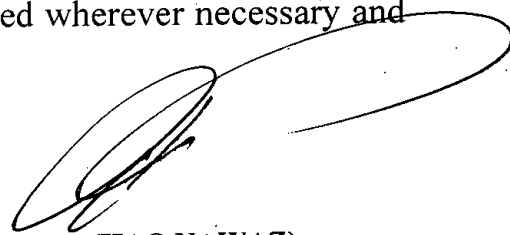
(HAQ NAWAZ)
Sessions Judge/Judge Special Court,
Orakzai at Baber Mela

CERTIFICATE

Certified that this judgement consists of thirteen (13) pages.

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

Dated: 29.09.2026



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