

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

SPECIAL CASE NO. : 2/3 OF 2026
DATE OF INSTITUTION : 16.01.2026
DATE OF DECISION : 06.10.2026

STATE THROUGH SHO MUHAMMAD JAMEEL, POLICE STATION
KALAYA

.....(COMPLAINANT)

-VERSUS-

KHAN WAZIR S/O MAJEED KHAN, CASTE BAR QAMBAR KHEL,
DISTRICT KHYBER

..... (ACCUSED)

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

FIR No. 130
U/S: 9 (1) 3 (d) CNSA

Dated: 15.11.2025
Police Station: Kalaya

JUDGEMENT
06.10.2026

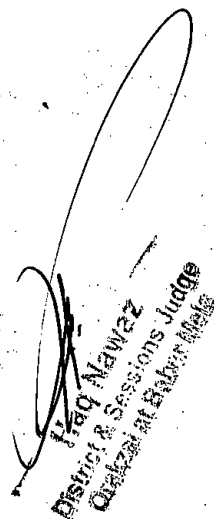
This case was registered against the accused **Khan Wazir** S/O Majeed Khan, Caste Bar Qambar Khel, District Khyber vide FIR No. 130, Dated 15.11.2025 at Police Station Kalaya u/s 9 (1) 3 (d) CNSA.

2. According to averments of the FIR, the SHO Police Station Kalaya along with other police contingent, during surveillance duty in the area, laid a barricade near old FC Check-Post Goyeen on main road leading from Mishti Mela to Kalaya on 15.11.2025 when a white motorcar Suzuki Mehran bearing Registration No. AJF-651/Sindh was coming from Mishti Mela at 1250 hours. The vehicle was stopped and the driver was disembarked who disclosed his name as Khan Wazir s/o Majeed Khan. The complainant recovered 06

packets of chars, wrapped in yellow scotch tape, from a secret cavity inside the switchboard of the motorcar after uninstalling the MP3. He weighed each packet which turned out to be 1200 grams each, making a total of 7200 grams. The complainant separated 10 grams each sample from the recovered packets of contraband and sealed the same into parcels No. 1 to 6 for the purpose of chemical analysis. The remaining 7140 grams of chars was sealed into parcel No. 7. Videography of the occurrence was carried out and sealed into parcel No. 8. All the parcels were affixed with the monogram of 'MJ'. 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 resume of the depositions of the prosecution's witnesses is as under;

- I. Constable Iftikhar Hussain stood in the witness box as PW-1. He stated that he received parcels No. 1 to 6 from the IO, containing samples of chars, for taking the same to FSL for chemical analysis on 18.11.2025 and handed over its


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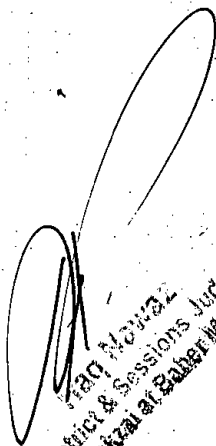
receipt to IO upon his return from the FSL. His statement was recorded by the IO u/s 161 CrPC.

II. Moharrir Amir Nawaz Khan appeared in the witness box as PW-2. He stated that he incorporated the contents of Murasila into FIR Ex. PW 2/2. He handed over the copy of FIR to the IO. The PW received the case property from the complainant in duly packed and sealed condition which were safely kept by him in Malkhana after making its entries in Register No. 19 which is Ex. PW 2/3. He parked the motorcar in the police station. He also handed over parcels No. 1 to 6 to IO for its transmission to FSL on 18.11.2025. The PW made entries in the daily diaries which are Ex. PW 2/4. His statements were recorded by the IO u/s 161 CrPC.

III. The Investigating Officer Murtaza Khan was examined as PW-3. He stated that after entrustment of investigation to him in the instant case, he proceeded to the spot where the complainant pointed out the place of occurrence to him and shown the case property along with the accused. The PW prepared the site plan Ex. PW 3/2 on the pointation of complainant and recorded statements of the witnesses u/s 161 CrPC on the

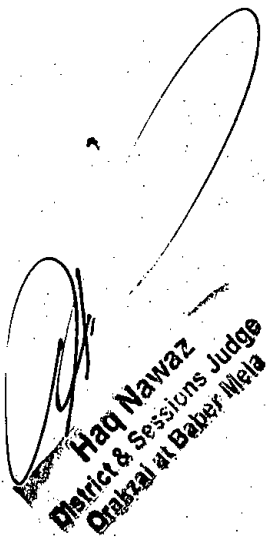

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spot. He produced the accused before the Court of Judicial Magistrate on 16.11.2025 vide application Ex. PW 3/3 for obtaining physical custody of the accused and one-day custody was granted. He again produced the accused before the said Court on 17.11.2025 vide application Ex. PW 3/4 for recording his confessional statement but the accused refused to record his confessional statement and was sent to Judicial Lock-Up. The PW sent the test samples in parcels No. 1 to 6 to FSL along with application Ex. PW 3/5 and route permit Ex. PW 3/6 on 18.11.2025. The FSL result was produced by the IO which is Ex. PW 3/7. 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 which correctly bear his signatures.


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IV. The complainant, SHO Muhammad Jameel, appeared before the Court as PW-4. He stated that he along with police officials Muhammad Irshad and Wajid Ullah were on surveillance duty in the area on 15.11.2025, in official vehicle driven by Muhammad Shah. They laid a barricade on the spot where a motorcar bearing Registration No.

AJF 651/Sindh came from Mishti Mela at 1250 hours. The PW stopped the motorcar and deboarded its driver who disclosed his name as Khan Wazir s/o Majeed Khan. The complainant recovered 06 packets of chars, wrapped in yellow scotch tape, weighing 1200 grams each, from a secret cavity inside the switchboard after taking out the MP3. He separated 10 grams from each packet for FSL examination which were packed and sealed into parcels No. 1 to 6. The remaining 7140 grams of chars was sealed in parcel No. 7. Wajid Ullah Constable carried out videography of the occurrence which was converted into a USB and the same was packed and sealed into parcel No. 8. The complainant placed one monogram of "MJ" inside each parcel and affixed three monograms upon the parcels. The recovery was affected through recovery memo Ex. PW 4/2. The complainant issued card of arrest of the accused which is Ex. PW 4/3. He prepared the Murasila Ex. PW 4/4 and sent it along with other documents to police station through Constable Wajid Ullah 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


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the accused to him. He took the case property and the accused to police station and handed it over to Moharrir. The PW submitted complete challan against the accused after completion of investigation. He verified the contents of all the documents, prepared by him and submitted that the same are correct which correctly bear his signatures.

V. The Constable Wajid Ullah appeared before the Court as PW-5. He is marginal witness to the recovery memo Ex. PW 4/2 through which the complainant took into possession the recovered contraband and the motorcar. 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.

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. 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 by producing the concerned PWs. 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 defence counsel submitted that the MP3 was not taken into possession through recovery memo. The record is silent as to how the MP3 was opened. The type of sharp object is not mentioned in the record through which the samples were separated. The marginal witness to the recovery memo Wajid Ullah/PW-5 signed the recovery memo in Urdu but his CNIC bears his signature in English. He does not know the distance between the place of occurrence and the police station. He arrived back to the spot at 1430 hours which is the time of chalking out the FIR. There is no mention of the place of occurrence in the card of arrest. The complainant is a constable by rank. He submitted in his statement as PW-4 that CNIC of the accused was not recovered by him then how he incorporated CNIC number of the accused in the card of arrest. The kind of chars, the colour and capacity of the USB and the number of monograms is not


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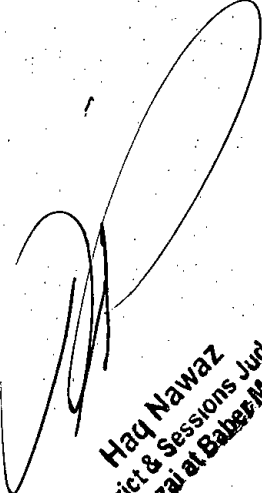
mentioned in the Murasila. The site plan is silent about the place of separation of samples and the place of video-maker. The register No. 19 is not in printed form and PW-1 has not stated about affixation of his signature on the said register. It also does not have the signatures of Depositing/Seizing Officer and Parcel Carrier. He finally argued that the prosecution's case is full of doubts; therefore, the accused be acquitted from the charges levelled against him.

7. After hearing both the parties and perusal of the record, it was found that the occurrence was taken place on 15.11.2025 at 1250 hours on main metaled road Mishti Mela to Kalaya Headquarter near old FC Check-Post Goyeen when the Seizing Officer along with police contingent were present at a barricade over there and vehicle No. AJF-651/Sindh white Suzuki Mehran came there from Mishti Mela side. It was stopped for checking. The driver was alighted. He disclosed his name as Khan Wazir. The search of the vehicle led to the recovery of six packets of chars, wrapped in yellow scotch tape, in a secret cavity made behind MP3 in the switchboard. Each packet was found to be 1200 grams on weighment, making a total of 7200 grams. The samples of 10 grams each were separated from the packets and the same were sealed in parcels No. 1 to 6. The remaining 7140 grams of contraband were packed and sealed into parcel No. 7 which was produced before the Court as Ex. P1. Videography of the


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occurrence was carried out by PW Wajid Ullah which was converted into USB and sealed into parcel No. 8 which is Ex. P2. The parcels were affixed with the monogram of 'MJ'. The contraband and crime vehicle, produced before the Court as Ex. P3, were taken into possession and Murasila was sent for registration of FIR.

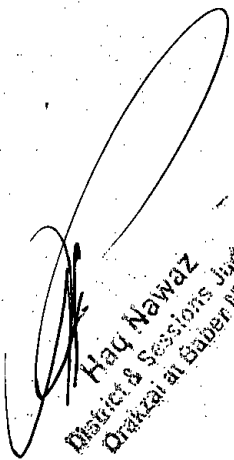
8. The prosecution's case is mainly based upon the statements of complainant (PW-4), marginal witness of the recovery memo (PW-5), Moharrir of the police station (PW-2), the Parcel Carrier (PW-1) and the Investigating Officer (PW-3). The complainant, while appearing in the witness box, furnished a comprehensive account of the circumstances culminating in the recovery. He delineated the sequence of events explaining that a barricade was established on the place of occurrence on the relevant day and on arrival of the vehicle in question the same was stopped for the purpose of checking. The accused was asked to alight and thereafter recovery was effected from the secret cavity made in the switchboard of the vehicle behind the MP3. The contraband and the vehicle were taken into possession through recovery memo Ex. PW 4/2. He also prepared Murasila Ex. PW 4/4 and handed it over to Wajid Ullah Constable for its transmission to police station for registration of FIR. The complainant personally handed over the case property to Moharrir upon his arrival to police station. The Investigating


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Officer prepared the site plan on the pointation of complainant. The testimony of the PW-4 finds material corroboration in the statement of marginal witness to the recovery memo who appeared before the Court as PW-5. He narrated the occurrence in the same terms as stated by the PW-4. He also verified the contents of recovery memo and his signature upon it with the submission that the videography of the occurrence was carried out by him. He further deposed that the Murasila was taken to police station by him and he handed it over to Moharrir for registration of FIR.

9. The Moharrir, in his statement before the Court as PW-2, affirmed the receipt of Murasila through PW-5, upon which he registered FIR Ex. PW 2/2. He also deposed about receipt of the recovered contraband from the complainant and keeping the same into Malkhana of the police station safely after making necessary entries in register No. 19 Ex. PW 2/3. He further deposed that parcels No. 1 to 6, containing samples, were handed over by him to IO on 18.11.2025 for its transmission to FSL. The Parcel Carrier, Iftikhar Hussain, handed him over the certificate of its receipt in FSL which was entered by the Moharrir in register No. 19.

10. The Investigating Officer, in his statement before the Court as PW-3, in corroboration with the statement of PW-2, deposed about the collection of sample parcels No. 1 to 6


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from the Moharrir on 18.11.2025 and handing it over to Iftikhar Hussain Constable along with application to FSL Ex. PW 3/5 and route certificate Ex. PW 3/6 for its transmission to FSL. He also submitted that he placed on file the FSL report Ex. PW 3/7 on its receipt. The perusal of said report discloses that the samples in question were subjected to physical and chemical test/analysis in FSL which were found to be chars with brown solid physical appearance. The Investigating Officer further submitted that the site plan Ex. PW 3/2 was prepared by him on the pointation of complainant. He produced the accused before the Court of Area Judicial Magistrate on 16.11.2025 and 17.11.2025 vide applications Ex. PW 3/3 and Ex. PW 3/4.

11. The Parcel Carrier, in his statement before the Court as PW-1, submitted that the IO handed over parcels No. 1 to 6, containing samples of the recovered contraband, to him on 18.11.2025. He took the same to FSL and deposited it against proper receipt. Hence, the test samples were proved to have been dispatched to FSL from the police station within the prescribed period of time.

12. A careful appraisal of the testimonies of the PWs reveal that the witnesses remained consistent with regard to interception of the vehicle and the manner in which the contraband was recovered. Their consistency extends further to the subsequent handling of the case property from the place of

occurrence to police station. The arrival of Investigating Officer to the crime scene and preparation of the site plan by him upon the pointation of the complainant. The statement of Moharrir confirmed that the Murasila was received by him through Constable Wajid Ullah and the contraband was handed over to him by the complainant which were kept by him in Malkhana of the police station safely after making necessary entries in register No. 19 which further re-enforced the said position. The oral testimonies of the relevant witnesses, when read in conjunction with the documentary evidence, leave little room for doubt that the case property was transported from the spot to the police station in a secure and duly accounted for manner. According to the judgment of the Hon'ble Peshawar High Court, Peshawar, passed in Cr. A No.1015-P/2025, Dated 01.07.2026,

“The identity of the officials involved, the chain of custody, and the correspondence entries collectively form a coherent and reliable evidentiary chain”.

13. All the witnesses were subjected to sufficient cross examinations on material aspects of the case, yet no contradiction of substance could be elicited so as to discredit their version. The defence endeavoured to extract inconsistency; however, such efforts did not yield any

material favourable to the accused and the points raised by the learned defence counsel in his arguments do not touch material aspects of the case.

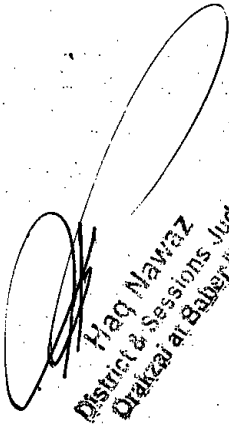
14. Similarly, the Moharrir confirmed unequivocally that the samples were handed over by him to the Investigating Officer on 18.11.2025 for its transmission to FSL and he made entry in register No. 19 after receiving acknowledgement receipt from the FSL through Constable Iftikhar Hussain. The Investigating Officer confirmed the collection of samples from the Moharrir and handing it over to Constable Iftikhar Hussain. The Parcel Carrier testified as PW-1 about the deposit of samples in the FSL against proper receipt. The report of the Chemical Examiner which has been placed on record is positive and provides a detailed account of the analysis conducted, confirming the samples to be chars. There is nothing on record to suggest any tempering, substitution, or break in the chain of custody.

15. In view of the above facts, the prosecution has successfully established not only the safe custody of the case property from the place of recovery to the police station, but also the secure and unbroken transmission of the test samples to the office of Chemical Examiner. The defence has failed to bring forth any material or substantial dents in the testimonies of the prosecution's witnesses. The Hon'ble Peshawar High


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Court, Peshawar has held in the above-mentioned judgment in similar circumstances that,

“The prosecution witnesses have remained consistent on material particulars, and their testimonies are duly corroborated by documentary record. The element of the safe custody of the recovered contraband stands satisfactory established, as does the secure transmission of the test samples to the office of the Chemical Examiner. The case rests on the chain of consistent, corroborated, and reliable evidence which remains unshaken in material particulars.”

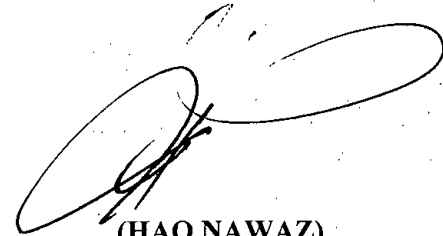

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It is, therefore, held that the prosecution has succeeded in proving its case against the accused beyond any reasonable doubt. The accused **Khan Wazir** S/O Majeed Khan, Caste Bar Qambar Khel, District Khyber is, therefore, convicted under Section 9 (1) 3 (d) of the Khyber Pakhtunkhwa Control of Narcotic Substances Act and sentenced to seven (07) years rigorous imprisonment with the fine of Rs. 800,000/-. 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 CrPC is extended to the convict. Copy of the judgment is provided to him free of cost.

17. The case property in the shape of narcotics be destroyed after the period provided for appeal/revision. The crime vehicle, Ex. P3, is confiscated to state. File of this Court be consigned to record room after its necessary completion and compilation.

Announced:
06.10.2026



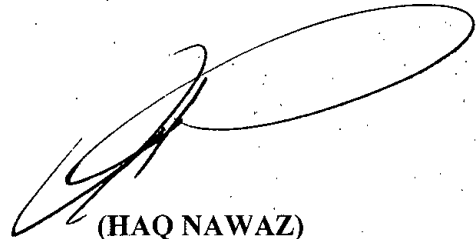
(HAQ NAWAZ)
Sessions Judge/Judge Special Court,
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CERTIFICATE

Certified that this judgement consists of fifteen (15) pages.

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

Dated: 06.10.2026



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