

IN THE COURT OF SHAUKAT AHMAD KHAN
SESSIONS JUDGE/JUDGE SPECIAL COURT,
ORAKZAI (AT BABER MELA)

SPECIAL CASE NO. : 14/3 OF 2023
DATE OF ORIGINAL INSTITUTION : 02.12.2022
DATE OF TRANSFER-IN : 15.03.2023
DATE OF DECISION : 30.03.2023

STATE THROUGH MUQADAR KHAN ASHO, POLICE STATION
KALAYA

.....(COMPLAINANT)

-VERSUS-

NAJB UR REHMAN S/O ZARBAT KHAN, AGED ABOUT 43 YEARS,
R/O CASTE FERAZ KHEL, TAPA QASIM KHEL, SAM, DISTRICT
ORAKZAI

..... (ACCUSED FACING TRIAL)

Present: Umar Niaz, District Public Prosecutor for State.
: Sana Ullah Khan Advocate, the counsel for accused.

FIR No. 92 **Dated:** 28.09.2022 **U/S:** 9 (d) of the Khyber
Pakhtunkhwa Control of Narcotic Substances Act, 2019

Police Station: Kalaya

JUDGEMENT
30.03.2023

The above-named accused is charged for the offence u/s 9 (d) of the Khyber Pakhtunkhwa CNSA, 2019 vide FIR No. 92, Dated 28.09.2022 of Police Station Kalaya.

- (2). As per contents of FIR, the complainant Muqadar Khan ASHO along with constable Waheed Ullah and Hameed Ullah during routine patrolling, having laid a picket at Geedare Kalay, at about 1400 hours stopped a person holding a blue colour plastic shopper in his hand on way from Headquarter chowk towards the picket. Nothing incriminating was recovered from his personal search. The search of the plastic


(18)

Shaukat Ahmad Khan
District & Sessions Judge,
Orakzai at Baber Mela
23/03/23

STATE VS NAJB UR REHAMN
FIR NO.: 92, DATED: 28.09.2022, U/S 9 (d) CNSA,
POLICE STATION: KALAYA

shopper led the complainant to the recovery of 05 packets of chars, wrapped with yellow colour scotch tape, each weighing 1000 grams, making a total of 5000 grams of chars.

(3). After completion of investigation, complete challan was put in court. The accused was summoned through addendum-B, copies of the record were provided to him in line with section 265-C CrPC and formal charge was framed against him to which he pleaded not guilty and claimed trial. Accordingly, the witnesses were summoned. Today, the case was fixed for evidence of prosecution. Mr. Sana Ullah Khan Advocate submitted application for disposal of the case of accused on the basis of plead guilty, for the reasons that the accused is a poor person, cannot afford the expenses of litigation, and that being first offender, lenient view may be taken against him. In support of the application, counsel for accused submitted unattested copy of the judgment dated 23.01.2023 of the Honorable Peshawar High Court, Peshawar wherein the accused in case FIR No. 27, Dated 27.02.2021, u/s 9 (d) CNSA of Police Station Kalaya was convicted and sentenced to rigorous imprisonment for 03 years with a fine of Rs. 500,000/- for having found guilty of the offence in possession of 06 kg of chars vide order dated 30.09.2021 of this court. However, the Honorable


Shaukat Ahmad Khan
District & Sessions Judge
Orakzai at Baber Mela
30/03/23

Peshawar High Court, Peshawar in appeal vide aforementioned judgment maintained the conviction but placed the accused on probation for rest of 28 months. Application along with relevant documents are placed on file. In view of the application of accused, prosecution did not want to produce further evidence. Statement of the accused recorded u/s 342 Cr.P.C.


- (4). Arguments heard and record perused. Perusal of case file shows that the accused was having only 5000 grams of chars in his possession; therefore, he is held guilty of the offence punishable u/s 9 (d) of the Khyber Pakhtunkhwa Control of Narcotic Substances Act, 2019. Hence, he is convicted of the offence. But as the accused is first offender and there is no record of his previous involvement in such like offences. Therefore, he must have a chance of repentance. Keeping in view the aforementioned circumstances and the clean breast admission of the guilt of the accused, his poor financial status and recovery of 5000 grams of chars, by taking a lenient view and while seeking guidance from the supra judgment of the Honorable Peshawar High Court, Peshawar, instead of sentencing him at once, he is placed on probation for a period of 01 (one) year subject to the executing of bonds in the sum of Rs. 50,000/- with two sureties to the effect that the accused would commit no


Shaukat Ahmad Khan
District & Sessions Judge,
Orakzai at Baber Meta
30/03/23

offence and to keep the peace and be of good behavior during the period of bond and to appear and receive the sentence, if called upon to do so during that period to the satisfaction of Probation Officer concerned. Case property i.e., chas be destroyed in accordance with law after the period provided for appeal/revision. Consign.




Pronounced:
30.03.2023


SHAUKAT AHMAD KHAN)
Sessions Judge/Judge Special Court,
Orakzai at Baber Mela

CERTIFICATE

Certified that this judgment consists of four (04) pages. Each page has been read, corrected wherever necessary and signed by me.

Dated: 30.03.2023


SHAUKAT AHMAD KHAN)
Sessions Judge/Judge Special Court,
Orakzai at Baber Mela