

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

SPECIAL CASE NO. : 58/3 OF 2021
DATE OF INSTITUTION : 20.10.2020
DATE OF DECISION : 28.10.2021

STATE THROUGH MUQADAR KHAN ASHO, POLICE STATION
KALAYA LOWER ORAKZAI
.....(COMPLAINANT)

-VERSUS-

1. YOUNIS S/O ABDUL BADSHAH, DANDH STORI KHEL, DISTRICT KHYBER
2. TARIQ S/O NOOR JAAN, DANDH STORI KHEL, DISTRICT KHYBER
..... (ACCUSED FACING TRIAL ON BAIL)
3. KHYBER S/O MIMLA KHAN, DANDH STORI KHEL, DISTRICT KHYBER
..... (ABSCONDING CO-ACCUSED)

Present: Umar Niaz, District Public Prosecutor for State.

FIR No. 106 **Dated:** 31.08.2021 **U/S:** 9 (d) of the Khyber
Pakhtunkhwa Control of Narcotic Substances Act, 2019 & 512 Cr.P.C.
Police Station: Kalaya

ORDER NO. 04
28.10.2021

DPP, Umar Niaz for the State present. Accused Khyber is absconding. PWs; Muqadar Khan SHO, Hamid Khan ASI, Aftab Hassan SI/OII and Shal Muhammad SHO present and examined as PW-2 to PW-5 respectively. The prosecution abandoned remaining PWs and closed its evidence.

- (2). Arguments heard and record perused.
- (3). The case of the prosecution as per contents of Murasila Ex. PA/1 converted into FIR Ex. PA is; that on 31.08.2021, complainant, Muqadar Khan ASHO, PW-2 alongwith other police


Shaukat Ahmad Khan
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officials acting upon the information regarding smuggling of narcotics by the above-named accused via a motorcycle, laid a picket on the spot where at about 1100 hours, a motorcycle riding by three persons, without registration number, on way from Karghan side towards the spot was stopped. The riders on seeing the police party threw the plastic sack and made their escape good from the spot. The search of white colour sack led the complainant/PW-2 to the recovery of 10 packets of chars, each on weighing turned 1200 grams (total of 12000 grams of chars). The complainant/PW-2 separated 10 grams of chars from each packet for chemical analysis of FSL, packed and sealed the same into parcels no. 1 to 10 whereas the remaining quantity of chars weighing 1190 grams in each packet were packed and sealed in parcels no. 11 to 20 with white colour sack weighing 34 grams packed in parcel no. 21. The complainant/PW-2 took into possession the recovered chars alongwith the said motorcar vide recovery memo Ex. PC. Murasila Ex. PA/1 was drafted and sent to the PS which was converted into FIR Ex. PA by PW-2 Moharrir Ayub Khan.

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- (4). Accused Younis s/o Abdul Badshah, Tariq s/o Noor Jaan and absconding accused Khyber s/o Mimla Khan are charged for the offence u/s 9 (d) of KP CNSA Act, 2019 vide FIR no. 106, dated 21.08.2021 of PS Kalaya wherein as per contents of FIR, the local police acting upon the information regarding smuggling of narcotics by the above-named accused via a motorcycle, laid a picket on the spot where at about 1100 hours a motorcycle riding by three persons, on way towards the spot was seen. The riders on

seeing the police party threw the plastic sack and made their escape good from the spot. The search of the plastic sack led the complainant to the recovery of 10 packets of chars, each weighing 1200 grams (total of 12000 grams of chars). Hence, the present case.

(5). After completion of investigation, the prosecution submitted challan against the accused Younis, Tariq and Khyber u/s 512 Cr.P.C. After arrest of accused Younis and Tariq on bail, supplementary challan against accused Younis and Tariq alongwith application for their discharge was submitted which was allowed vide order dated 25.10.2021 of this Court and the accused on bail were discharged.

The absconding accused Khyber was proceeded u/s 512 Cr.P.C and the prosecution was directed to produce evidence in absentia of the accused. Accordingly, the prosecution produced and examined as many as 05 witnesses.

(6). It is evident from the record that despite being proceeded u/s 204 Cr.P.C as well as u/s 87 Cr.P.C, accused Khyber is avoiding his lawful arrest. As per evidence recorded by the prosecution, a prima facia case has made out against the absconding accused Khyber s/o Mimla Khan; hence, he is declared proclaimed offender. Perpetual warrant of arrest be issued against him and DPO, Orakzai is directed to enter his name in the register of proclaimed offenders. All the legal course be adopted for his arrest and he be brought before the court as and when arrested. Consign.

Pronounced
28.10.2021




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