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IN THE COURT OF REHMAT ULLAH WAZIR,
JM-I/MTMC, ORAKZAI AT BABER MELA

CASE NO. : 13/3 OF 2021
DATE OF INSTITUTION : 25.03.2021
DATE OF DECISION : 27.11.2021

STATE THROUGH SALIM KHAN, ASHO, PS GHILJO, DISTRICT,
U/ORAKZAI

-----**(Complainant)**

VS

1. Muhammad Shoaib s/o Jamaldar Khan.
(R/O Dar Kalay, Samana, District Orakzai)

-----**(Accused Facing Trial)**

Present: Nisar Ahmad, Assistant Public Prosecutor for complainant.
: Noor Karim Orakzai Advocate, for accused facing trial.

ORDER
27.11.2021

1. Accused facing trial, Muhammad Shoaib present who is charged in case FIR No. 02, Dated: 03.01.2021, U/S 15AA of PS Ghiljo, U/Orakzai for possession of 580 rounds of dunger bore, which were recovered from front seat of motorcar bearing registration no. LG-235, Islamabad driven by the accused.


2. Briefly stated factual background of the instant case is that the complainant Salim Khan, ASHO reported the matter for recovery of 580 rounds of dunger bore from the front seat of the motorcar driven by the accused.


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3. Upon which, the instant case was registered at PS: Ghiljo, U/Orakzai on 03.01.2021, vide FIR. 02.
4. After completion of the investigation, the complete challan was submitted on 25.03.2021 to this court. The accused on bail was summoned. The accused on bail appeared and the provisions of 241-A Cr.P.C was duly complied with. The formal charge against the accused on bail was framed on 27.08.2021, to which the accused person pleaded not guilty and claimed trial.
5. Prosecution was given ample opportunity to adduce its evidence as it desired. Prosecution produced the following evidence;

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| i. Copy of FIR. | Ex.PA |
| ii. Complete Challan | Ex.PW-3/8 |
| iii. Murasila | Ex.PA/1 |
| iv. Recovery Sketch | Ex-PB |
| v. Recovery Memo | Ex.P-1 |
| vi. Card of arrest | Ex.PW- 3/2 |
| vii. Application for remand judicial | Ex.PW-3/3 |
| viii. Application to FSL | Ex. PW-3/4 |
| ix. Road certificate | Ex. PW-3/5 |
| x. Naqal mad | Ex. PW-3/6 |
| xi. Register no. 19 | Ex. PW-3/7 |


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6. Then after, on 23.10.2021, the learned APP for the state closed the evidence on behalf of the prosecution.
7. Statement of accused on bail u/s 342 Cr.P.C was recorded wherein he neither opted to be examined on oath u/s 342(2) of the Cr.P.C nor he wanted to produce any defence evidence in his defence.
8. After conclusion of trial, arguments of the learned counsel for the accused facing trial and of the APP for the complainant heard and record perused.
9. The accused is charged with the offence U/S 15AA. Sec.15AA PPC deals with the possession of unlicensed weapon.
10. Keeping in view, the record on file and the depositions of PWs, the prosecution is required to prove its case against the accused beyond reasonable doubts.
11. PW-02, who is the Muharrir of the PS has stated that he drafted the FIR which is Ex.PA after receiving the Murasila, which is correct and correctly bears his signature. That his statement was recorded by the I.O u/s 161 Cr.P.C.
12. PW-03, who is the seizing officer has stated that he intercepted the car which was driven by the accused and he recovered a bag containing 580 rounds of dunger bore from


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the front seat of the vehicle through a recovery memo which is Ex.PW-3/1. Issued his card of arrest which is Ex.PW-3/2, drafted Murasila which is Ex.PA/1. Sent the case property through the one Abdul Malik, ASI, the application and the road certificate in this respect are Ex.PW-3/4 and Ex.PW-3/5 respectively, daily diary and register no. 19 are Ex.PW-3/6 and Ex.PW-3/7 respectively, report of FSL is Ex.PZ and complete challan is Ex.PW-3/8.

13. PW-04, the marginal witness to the recovery memo, has fully supported the stance of prosecution by narrating the same story as in the Naqalmd and FIR.

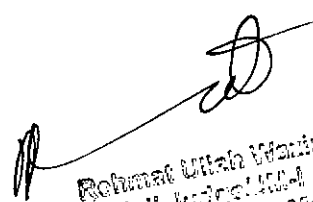
14. PW-05, who took the case property to FSL, has fully supported the version of prosecution.

15. The recovery witnesses, Inspector Salim Khan and Muhammad Rasool, constable, as PW-03 and PW-04 respectively in their evidence stood firm regarding mode and manner of the occurrence and despite they being cross-examined at length, nothing favourable to the accused could be extracted from their mouths. Nothing was alleged by the defence that either the accused was charged for certain ill-will, ulterior motives or malafide. The story deposed by the ocular account in the absence of any malafide etc on their part is thus confidence inspiring, trustworthy and reliable.

[Handwritten signature and scribbles]

No doubt certain minor omissions do exist in the evidence of the prosecution but these are not of such nature either to deny the presence or proceedings of the witnesses carried out at the spot at the relevant time of the occurrence. There exist no major contradictions in between the statements of the ocular account or the formal witnesses and all the witnesses deposed in line with the story reported in the first information report.

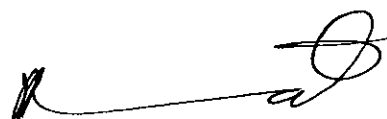
16. The detailed discussion of the case would lead to the conclusion that the prosecution has successfully established the guilt of the accused facing trial and have concluded the same in their favour. There exist no major contradictions in the evidence of the prosecution leading towards doubts in favour of accused facing trial. Therefore, this Court safely held that the accused facing trial on the basis of evidence produced is guilty of the offence charged for. Thus, the accused namely Muhammad Shoaib s/o Jamaldar Khan is convicted for having in his possession 580 rounds of 7.92 mm bore and sentenced u/s 15 of the Khyber Pakhtunkhwa Arms Act, 2013 and sentenced to suffer simple imprisonment for a period of 03 years. Since the accused is first offender and there is nothing on file to reflect upon his character. Therefore, instead of sentencing him at once, the


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lenient view is taken and is deemed just and proper to require him to be under supervision of District Probation Officer u/s 5 of the probation of offender's ordinance 1960 for a period of 01-year subject to furnishing bail bonds to the tune of Rs. 80,000/- with two local and reliable sureties each in the like amount to the satisfaction of Probation Officer concerned for keeping peace and good behaviour and also not repeating of the same offence for said period. The Probation Officer shall deal with the convict in accordance with law and shall keep strict supervision of the movements and behaviour of the convict for the said period.

17. In case of default or violation, the accused shall be committed to undergo simple imprisonment for a period of 03 years. He shall ensure good behaviour during the tenure of the probation of the convict. Copy of the order be sent to Probation Officer, Orakzai alongwith accused and sureties.
18. The case property i.e. 580 rounds of 7.92 mm bore is confiscated to the state and be dealt in accordance with the law after the expiry of period provided for appeal/revision.
19. File be consigned to the Record Room after its necessary completion and compilation.

Announced
27.11.2021


(Rehmat Ullah Wazir)
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Orakzai (at Baber Mela)



CERTIFICATE

Certified that this order consists of seven (07) pages.
Each page has been read, corrected where-ever necessary and
signed by me.

Dated: 27.11.2021

(Rehmat Ullah Wazir)
JM-I/MTMC,
Orakzai (at Baber Mela)