

**IN THE COURT OF ZAHIR KHAN, JUDICIAL MAGISTRATE -I**  
**TEHSIL KALAYA, DISTRICT ORAKZAI**

**Case No.....4/3 of 2023.**

**Date of Institution.....22.03.2023.**

**Date of Decision.....22.12.2023.**

**State through:**

Sub-Inspector/SHO Shal Muhammad, PS Kalaya.....**Complainant**

VERSES

Gul Nawaz S/O Rooh Ullah R/O Qaum Stori Khel, Tappa Lal-Bi-  
 Lal, Sheraz Garhi, Tehsil Lower, District Orakzai..... **Accused**

Case FIR No. 10, Dated 01.02.2023 U/S 11-A CNSA, PS Kalaya.

**JUDGEMENT**

**22.12.2023**

Through this judgement, I am going to dispose of the instant case registered against accused Gul Nawaz vide FIR No. 10 dated 01.02.2023 U/S 11-A CNSA, PS Kalaya.

- I. Brief facts of the prosecution's case as unfolded in the FIR Ex.PA are that, on 01.02.2023 at 16:00 hours, at Sheraz Garhi Bazar, Lower Orakzai, SHO/complainant Shal Muhammad, who was accompanied with by HC Taj Gul No. 310, Muhammad Rasool No. 1423 and Amir Ullah No. 443, was on area patrol Sheraz Garhi when a young person was coming from Tarkho Saam side. He was stopped and his body search was conducted during which a plastic bag of white color was recovered from his side pocket. On checking the same, it was containing 30 grams ICE. One gram was separated for FSL examination and it was packed and sealed into parcel No. 1 while 29



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grams ICE was packed and sealed into parcel No. 2. During body search, a plastic bottle was also recovered. Plastic bottle was packed and sealed into parcel No. 3. The person disclosed his name as Gul Nawaz S/O Rooh Ullah R/O Qaum Stori Khel, Tappa Lal-Bi-Lal, Sheraz Garhi, Tehsil Lower, District Orakzai. Murasila was drafted at the spot and was sent to PS through HC Taj Gul No. 310 for registration of the case.

2. The recovered ICE was taken into possession vide recovery memo Ex.PW-2/1 in presence of marginal witnesses. Accused was formally arrested at the spot vide card of arrest Ex.PW-2/2. Murasila Ex. PW-2/3 was sent to PS for registration of the case through HC Taj Gul No. 310 and on the strength of Murasila, case in hand was registered against the accused facing trial vide FIR Ex.PA.

3. After completion of investigation, complete challan was submitted by prosecution against the accused facing trial. Accused was summoned, who appeared before the court and legal formalities under Section 241-A Cr. PC were complied with. Formal charge was framed to which accused pleaded not guilty and claimed trial, afterwards prosecution was directed to produce its evidence.


4. Prosecution produced five (05) witnesses to prove its case against the accused while PW constable Muhammad Rasool No. 1423 and Muhammad Ayaz No.1420 were abandoned by the prosecution being witnesses of the same facts.

  
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5. Sub-Inspector Muhammad Hanif, deposed as PW-01. He is IO of the case. He stated that after registration of the case, copy of FIR along with relevant documents were handed over to him for investigation. He proceeded to the spot and prepared site plan Ex.PB on the pointation of complainant/SHO Shal Muhammad. He recorded statements of PWs u/s 161 Cr.PC. Accused was arrested by SHO/complainant PS Kalaya and was handed over to him for interrogation/completion of investigation. On 02.02.2023, he produced the accused before the court for obtaining his physical custody vide application Ex.PW-1/1, 01 day custody was granted. He interrogated the accused and recorded his statement u/s 161 Cr.PC. On 03.02.2023, he produced the accused before the court for recording his confessional statement vide application Ex-PW-1/2. Accused refused to confess his guilt and he was sent to judicial lock-up. Parcel containing sample was sent to FSL vide application Ex.PW-1/3. FSL report was received and placed on file. FSL report is Ex.PW-1/4. He has also placed on file copy of register 19, DD reports and receipt/road permit certificate. After completion of investigation, he handed over the case file to SHO for submission of complete challan against the accused.



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6. PW-02, is the statement of complainant/SI Shal Muhammad. He stated that during the day of occurrence, he was posted as SHO PS Kalaya. On the day of occurrence, i.e 01.02.2023, he along with HC Taj Gul No. 310, Muhammad Rasool No. 1423 and Amir Ullah No.

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443 were on area patrol at Sheraz Ghari Bazar when a young person was coming from Tarkho Saam who was stopped. He disclosed his name as Gul Nawaz S/O Rooh Ullah Qoum Stori Khel, Sheraz Garhi Lower Orakzai. During his body search a plastic bag of white color was recovered from his side pocket. On checking the same, it was containing 30-gram ICE. During body search, a plastic bottle was also recovered. One gram was separated for FSL examination which was packed and sealed into parcel No. 01 while the remaining 29 grams were packed and sealed into parcel No.02, plastic bottle was packed and sealed into parcel No. 03 by affixing 3/3 seals with mark of SH while 1/1 seal was put inside the parcels. Accused was arrested accordingly. The recovered ICE and bottle were taken into possession vide recovery memo Ex. PW-2/1 in presence of marginal witnesses. Card of arrest is Ex. PW-2/2. Murasila Ex. PW-2/3 was drafted on the spot and sent to PS for registration of the case through HC Taj Gul No. 310. Parcel No. 02 containing 29 grams ICE is Ex. P-1 and parcel containing plastic bottle is Ex. P-2. After registration of the case, he pointed out the spot to the IO. Accused and case property was handed over to Moharrir of the PS, on his return to PS. After completion of investigation, he submitted complete challan against the accused.



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7. Head Constable Taj Gul No. 310 was examined as PW-03. He stated that he is one of the marginal witnesses to the recovery memo already exhibited as Ex.PW-2/1 vide which SHO complainant recovered and took into possession 30- gram ICE and a plastic bottle from the

possession of the accused facing trial. One gram was separated for FSL examination which was packed and sealed into parcel No. 01 while rest was packed and sealed into parcel No. 02. Plastic bottle was packed and sealed into parcel No. 03 by affixing 3/3 seals with mark of SH while 1/1 seal was put inside the parcel. The Murasila, card of arrest and recovery memo were handed over to him which he took to the PS for registration of the case and the same were handed over to Moharrir of PS. His statement was recorded by IO u/s 161 Cr. PC.

8. Constable Gul Karim was examined as PW-04. He stated that during the days of occurrence, he was posted at PS Kalaya. Parcel No. 1 containing 01-gram ICE, sample for FSL examination along with application and road certificate was handed over to him by IO. He took the same to FSL Peshawar for examination. Receiving signature and seal of incharge FSL Peshawar was obtained on the document accordingly which he handed over to IO on his return. His statement was recorded by IO U/S 161 Cr. PC.

9. PW-05 is the statement of Muhammad Jameel Muharrir. He stated that on receipt of murasila from SHO Shal Muhammad through HC Taj Gul No. 310, he correctly incorporated contents of murasila into FIR Ex.PA. Case property was also handed over to him by SHO. Entry was made in register 19. Case property was kept in safe custody. Extract of register 19 is Ex.PW-5/1. Entries regarding departure from and arrival to PS of SHO/complainant and IO were made in DD. Extract of DD is Ex.PW-5/2. Parcel containing sample

  
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for FSL was handed over to Gul Karim for taking the same to FSL. His statement was recorded u/s 161 Cr.PC.

10. Afterwards, statement of accused U/S 342 Cr. PC was recorded wherein he professed his innocence, however, he did not wish to be examined on oath. He also opted not to produce defense evidence.

11. Record transpires that the occurrence took place on 01.02.2023 at 16:00 hours at Sheraz Garhi Bazar, Lower Orakzai. It was reported on 01.02.2023 at 16:30 hours and FIR was registered on 01.02.2023 at 17:10 hours. While going through the record available on file, it is noticed that recovery has been made from the direct possession of accused facing trial. The version of prosecution qua the recovery of 30 grams ICE from possession of the accused has been substantiated through the statements of PW-02 (complainant) and PW Taj Gul No. 310 (marginal witness). All the prosecution witnesses are consistent on salient aspect of the prosecution version. Positive FSL report Ex.PW-1/4 qua the one gram sample further support the prosecution's case. There is nothing on record which could show false implication of accused facing trial in the instant case. The prosecution witnesses gave detailed pen-picture of the recovery of 30 grams ICE from personal possession of accused facing trial. The chain of custody of the recovered ICE remained unbroken. Prosecution is successful in proving its case against accused facing trial through convincing, unshattered and confidence inspiring evidence.



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- 12.** As prosecution successfully proved its case against the accused facing trial beyond shadow of doubt therefore, accused Gul Nawaz is convicted and sentenced for offence u/s 11-A of KP CNSA with simple imprisonment of three months and fine of Rs. 300,000/-. In default of payment of the fine, he shall undergo 20 days simple imprisonment. Benefit of Section 382-B Cr. PC is extended to the accused. (Period behind the bar ; 01.02.2023 to 12.04.2023, two months and 12 days, 28.11.2023 to 22.12.2023, 24 days). Case property be dealt with in accordance with the law.
- 13.** Case file be consigned to record room after its completion and necessary compilation.

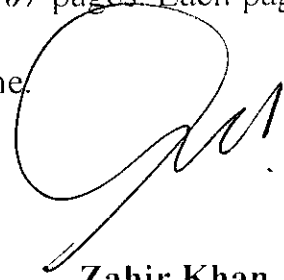
**Announced**  
22.12.2023



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**CERTIFICATE**

It is certified that this judgment consists of 07 pages. Each page has been dictated, read, corrected and signed by me.



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