

(5)

State VS Khyber Afridi etc.
Case No. 39/3, FIR No.: 39, Dated: 10.10.2023, u/s 9 (d) CNSA &
512 CrPC, Police Station: Kurez Boya

IN THE COURT OF SYED OBAIDULLAH SHAH
SESSIONS JUDGE/JUDGE SPECIAL COURT, ORAKZAI
(AT BABER MELA)

SPECIAL CASE NO. : 39/3 OF 2023
DATE OF INSTITUTION : 11.12.2023
DATE OF DECISION : 25.01.2024

STATE THROUGH MUHAMMAD YOUNAS SHO, POLICE STATION
KUREZ

.....(COMPLAINANT)

-VERSUS-

1. KHYBER S/O MIMLA KHAN
2. YOUNAS S/O ABDUL BADSHAH
3. HAMEED S/O MOHSIN KHAN
ALL RESIDENTS OF CASTE DISTRICT KHYBER
..... (ABSCONDING ACCUSED)


Present: Umar Niaz, District Public Prosecutor for State.

FIR No. 39. **Dated:** 10.10.2023 **U/S:** 9 (d) of the Khyber
Pakhtunkhwa Control of Narcotic Substances Act, 2019 & 512 Cr.P.C.
Police Station: Kurez

ORDER NO. 06
25.01.2024

DPP, Umar Niaz for State present. Accused Khyber, Younas and Hameed are absconding. PW Constable Khial Hassan present and examined as PW-5. The prosecution abandoned remaining PWs and closed its evidence.

- (2). Arguments heard and record gone through.
- (3). The prosecution's case, as outlined in Murasila Ex. PA based FIR Ex. PA/1 is as follows: On 10.10.2023, the complainant, Younas Khan SHO/PW-1 along with Altaf Ali ASHO, constables Syed Abbas Ali/PW-2, Junaid Ali, Akseer Ali and Asad Khan during routine patrolling received information regarding presence of accused Khyber, Younas and Hameed duly armed carrying plastic bags on their


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shoulders intending to smuggle them to District Khyber. The complainant/PW-1 along with his officials reached the spot and found the above-named persons duly armed having plastic bags on their shoulders, who were tried to stop by the complainant but they threw the bags and opened firing on the police officials. In response, the complainant party also made firing at them, as a result accused Hameed received injuries but all the accused made their escape good from the spot. The complainant/PW-1 recovered 35, 35 and 30 packets of chars from the respective bags of accused Khyber, Younas and Hameed. Each packet upon weightment amounted to 1000 grams, totalling 100,000 grams while the empty bags collectively weighed 45 grams. The complainant/PW-1 separated 10 grams of chars from each packet for chemical analysis through FSL, packed and sealed into different parcels whereas the remaining quantity of chars weighing and the empty bags were sealed in different parcels, by affixing monogram of 'MY' on all parcels. The complainant/PW-1 took into possession the recovered chars vide recovery memo Ex. PC. Murasila Ex. PA was drafted and sent to the Police Station through constable Syed Abbas Ali Shah/PW-2 which was converted into FIR Ex. PA/1 by Ibad Ul Hassan MM/PW-3.


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After completion of investigation, the prosecution submitted challan against the absconding accused who were

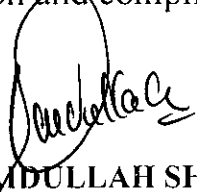
proceeded u/s 512 Cr.P.C and the prosecution was directed to produce evidence in absentia of the accused. Accordingly, the prosecution produced and examined as many as 05 witnesses.

- (5). 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, the accused are avoiding their lawful arrest and there is no likelihood of their arrest in near future. As per evidence recorded by the prosecution, a prima facia case has been made out against the absconding accused **Khyber, Younas and Hameed**; hence, they are declared proclaimed offenders. Perpetual warrants of arrest be issued against them and DPO, Orakzai is directed to enter their names in the register of proclaimed offenders. All the legal course be adopted for their arrest and they be brought before the court as and when arrested.

Order announced. File of this court be consigned to record room after its necessary completion and compilation.

Dated: 25.01.2024




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Sessions Judge/Judge Special Court,
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