

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

**Case No. 8/3 of 2021**

**Case FIR No. 90 Dated: 16.07.2021 U/S 11-A CNSA**

**PS Kalaya**

**Order. No. 16**

22.11.2022


APP for the state present. Accused Haji Ullah along with counsel present. PWs absent. Counsel for accused filed application U/S 249-A Cr. PC. Arguments on application heard and record gone through.

Brief facts of the case are that on the day of occurrence, SHO/complainant Shall Muhammad Khan, Constable Raza Ali No. 526, Abdul Sattar No. 1454 and Syed Abbas Ali Shah improvised barricade near Feroz Khel petrol pump when a young person riding on a motorcycle was stopped. His body search was conducted being suspect and during his body search, a plastic envelope containing 06 grams ICE was recovered from the side pocket of the said person who disclosed his name as Haji Malak S/O Yar Afzal R/O Qaum Qambar Khel, Hassan Zai, Dre Plaray. The recovered ICE was taken into possession in presence of marginal witnesses. One gram was separated for FSL examination and it was packed and sealed into parcel No. 1 while remaining was packed and sealed into parcel No. 2. Murasila was drafted at the spot and sent to the PS through Constable Syed Abbas Ali Shah for registration of the case and on the strength of Murasila, the instant case was registered against the accused.

After completion of investigation, complete challan was put in court

against the accused. Provisions of Section 241-A Cr. PC were complied with. Formal charge was framed. Accused pleaded not guilty and claimed

trial. Prosecution was allowed to produce evidence against accused.

  
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**Kalaya Orakzai**

Record shows that challan was put in court on 28.08.2021 and formal charge was framed on 21.12.2021, since then, only one PW namely Constable Nikzad Ali appeared and recorded his statement as PW-01.

PW-01, Constable Nikzad Ali stated that parcel No. 1 along with application for FSL, road certificate and receipt were handed over to him by IO. He took the same to FSL, Peshawar. Case property was handed over to incharge FSL and to this effect his receiving signature was obtained on the receipt. Receipt was handed over to IO on his return to PS. His statement was recorded by IO U/S 161 Cr. PC.

As per contents of Murasila and FIR, one-gram ICE was separated for FSL examination and it was packed and sealed into parcel No. 1 while rest was packed and sealed into parcel No. 2. Constable Nikzad Ali, who deposed as PW-01 stated that parcel No. 1 along with application for FSL, road certificate and receipt were handed over to him by IO. He took the same to FSL, Peshawar. Case property was handed over to incharge FSL and to this effect his receiving signature was obtained on the receipt. FSL report regarding the recovered ICE is not placed on file and without FSL report, it cannot be determined as whether the recovered substance is Methamphetamine (ICE) or not. APP for the state was confronted with the same. There is no probability of accused being convicted. Further proceedings would be a futile exercise and wastage of precious time of the court, therefore, application U/S 249-A Cr. PC is accepted and accused is acquitted from the charges levelled against him. He is on bail. His bail bonds stand cancelled. His sureties stand discharged from their liability.

Case property be dealt with in accordance with the law.



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File be consigned to record room after necessary completion and  
compilation.

**Announced.**  
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**(Zahir Khan)**  
Judicial Magistrate-I,  
Tehsil Kalaya, Orakzai