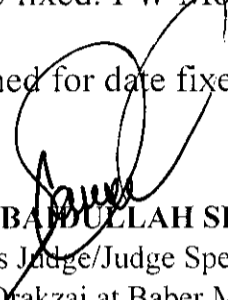
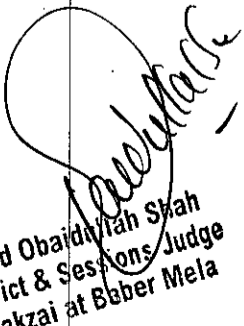


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IN THE COURT OF SESSIONS JUDGE, ORAKZAI AT BABER MELA

Case Title: State vs Ilyas Khan etc

Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.
1	2	3
Order No.10	30.04.2024	<p>The case is fixed for 01.05.2024 which is a public holiday; therefore, it is requisitioned and listed for 08.05.2024. Notices be issued to the state/complainant, the accused and his counsel for date fixed. PW Moharrir Muhammad Jameel also be summoned for date fixed.</p> <p style="text-align: right;">  (SYED OBAIDULLAH SHAH) Sessions Judge/Judge Special Court, Orakzai at Baber Mela </p>
Order No.11	08.05.2024	<p>DPP, Umar Niaz for the State and Sana Ullah Khan Advocate for accused present. Accused Ilyas Khan on bail present. Accused Nek Muhammad is absconding. PWs Moharrir Muhammad Jameel and Nasir Khan SHO present and examined as PW-2 and PW-3 respectively. Counsel for the accused submitted application for acquittal of the accused u/s 265-K CrPC. Notice of the same is given to the prosecution.</p> <p>(2). The case of the prosecution as outlined in the Murasila Ex. PA/1 based FIR Ex. PA is as follows; that on 20.11.2023, the complainant, Nasir Khan SHO/PW-3 along with other police officials laid a picket on main road Mandra Khel Check-Post. At about 1330 hours, a motorcycle boarded by two persons on way from Anjani Bazar towards Karghan, was stopped for checking. The pillion passenger came down of the motorcycle, threw a shopper and made his escape good from the spot. The search of the shopper led the complainant/PW-3 to the recovery of 710 grams of opium. The complainant/PW-3</p> <p style="text-align: right;">  Syed Obaidullah Shah District & Sessions Judge Orakzai at Baber Mela </p>

Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.
1	2	3
<p>Contin. Order No.11</p>	<p></p>	<p>separated 10 grams of opium from the total quantity for chemical analysis of FSL and sealed the same into parcel no. 1 whereas the remaining quantity of opium weighing 700 grams were sealed in separate parcel no. 2 and the empty shopper was sealed in parcel no. 3, affixing monograms of 'NA' on all the parcels. The driver of the motorcycle disclosed his name as Nek Muhammad s/o Kulcha Khan who unveiled that the opium belongs to the accused facing trial Ilyas Khan. The complainant took into possession the recovered opium vide recovery memo Ex. PC. Murasila Ex. PA/1 was drafted and sent to the police station through constable Wajid Ullah which was converted into FIR Ex. PA by Muhammad Jameel MHC/PW-2.</p> <p>(3). After registration of FIR, it was handed over to Minhaz Hussain OII for investigation. Accordingly, after receipt of FIR, he reached the spot, prepared site plan on pointation of the complainant and recorded the statements of PWs u/s 161 Cr.P.C. On 23.11.2023, the IO sent the samples for chemical analysis to FSL vide his application and road permit certificate. After completion of investigation, the IO handed over the case file to SHO who submitted challan against the accused facing trial.</p> <p>(4). -Upon receipt of case file for the purpose of trial, the accused was summoned, copies of the record were provided to him u/s 265-C Cr.P.C and formal charge was framed against him to which he pleaded not guilty and claimed trial. Regarding the absconding accused Nek Muhammad, search witness was examined as SW-1. The witnesses were summoned and the prosecution examined as many as 03 witnesses.</p>

Syed Obaidullah Shah
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 District & Sessions Judge
 Orakzai at Baber Meta

IN THE COURT OF SESSIONS JUDGE, ORAKZAI AT BABER MELA

Case Title: State vs Ilyas Khan etc


Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.
1	2	3
<p>Contin. Order No.11</p>	<p>(5).</p> <p>(6).</p>	<p>I heard arguments on application u/s 265-K CrPC and perused the record.</p> <p>Perusal of the case file reveals that as per record, the case of the prosecution is; that the complainant/PW-3 along with other police officials had left the police station for patrolling and laid a picket at Mandra Khel Check-Post, making their entries in the daily diary through Muhammad Jameel MHC who affirmed this during his examination in chief as PW-2. However, during cross-examination, he contradicted his statement and appeared to be unaware of which of the Madad Moharrirs had prepared the daily diary.</p> <p>It is also evident from the record coupled with the statement of complainant/PW-3 that the accused facing trial had fled from the spot whereas the recovery has been made from a plastic shopper allegedly thrown by him while the absconding accused was not apprehended on the spot rather, he was served a notice whereafter he was implicated as co-accused. It is astonishing to note that despite the presence of the absconding co-accused at the scene, the complainant let him scot-free while charging the accused facing trial solely based on the assertion of the co-accused. Moreover, the accused facing trial has not been arrested on the spot and no recovery has been effected from his personal possession. In addition to that there is no evidence on record establishing any connection between the accused facing trial and the alleged contraband.</p> <p>Furthermore, it has been admitted by the complainant/PW-3 that a picket was laid on main road at Mandra Khel Check-Post and the presence of police officials of check-post is natural but no one has been</p>

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IN THE COURT OF SESSIONS JUDGE, ORAKZAI AT BABER MELA

Case Title: State vs Ilyas Khan etc

Serial No of order or proceedings	Date of Order Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary.
1	2	3
Order No.13	17.05.2024	<p>DPP, Umar Niaz for the State present. Accused Nek Muhammad is absconding. PWs constable Wajid Ullah and Minhaz Hussain OII present and examined as PW-4 and PW-5 respectively. The prosecution abandoned the remaining PWs and closed its evidence.</p> <p>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 Nek Muhammad is avoiding his lawful arrest and there is no likelihood of his arrest in near future. As per evidence recorded by the prosecution, a prima facia case has been made out against him; hence, he is declared proclaimed offender. Perpetual warrant of arrest be issued against him and District Police Officer, 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. Case property be kept intact till arrest of the accused and final disposal of the case.</p> <p>Order announced. File of this court be consigned to record room after its necessary completion and compilation.</p> <p>Dated: 17.05.2024</p> <p style="text-align: right;"> (SYED OBAIDULLAH SHAH) Sessions Judge/Judge Special Court, Orakzai at Baber Mela</p>

