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State vs Shakeel Ahmad

Case FIR No. 29, Dated 11.08.2023 U/S 15-AA PS Mishti Mela.

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

Case No.....26/3 of 2023.

Date of Institution.....03.10.2023.

Date of Decision.....31.07.2024.

**State through:**

Sub-Inspector Akhtar Munir, ASHO PS Mishti Mela, District Orakzai

.....**Complainant**

VERSES

Shakeel Ahmad S/O Gul Bat Sher R/O Qaum Mishti, Tappa Darway  
Khel, Shalzara, District Orakzai ..... **Accused**

**Case FIR No. 29, Dated 11.08.2023 U/S 15-AA PS Mishti Mela.**

**JUDGMENT**

**31.07.2024**

Through this judgment, I am going to dispose of the instant case registered against accused Shakeel Ahmad vide case FIR No. 29, Dated 11.08.2023 U/S 15-AA PS Mishti Mela.

1. Brief facts of the prosecution's case as unfolded in the FIR Ex.PA are that, on 11.08.2023 at 10:40 hours on metaled road Goen Mor near Sanghra Bazar, Orakzai, complainant SI Akhtar Munir ASHO, who was accompanied with by other police nafri, was present on nakabandi on metaled road near Sanghra bazar. A person was coming from Sanghra side, he was stopped for the purpose of checking, during his body search, one 30 bore pistol without number along a fixed charger containing 07 live rounds of the same bore was recovered from his possession and the same was packed and sealed into parcel No. 1

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Ex.P-1. The person failed to produce any valid license in respect of the pistol. On further body search of the person, a plastic envelope of white colour containing 30 grams ICE was recovered from side pocket. The person disclosed his name as Shakeel Ahmad S/O Gul Bat Sher R/O Qaum Mishti, Tappa Darway Khel, Shalzara, District Orakzai, who was formally arrested. The complainant took into possession the recovered pistol and ICE in the presence of marginal witnesses. One gram ICE was separated for the purpose of FSL examination and the same was packed and sealed into parcel No. 2 while rest of the ICE was packed and sealed into parcel No. 3 Ex.P-2. Murasila was drafted at the spot and was sent to PS for registration of the case through Murad Gul. On the strength of Murasila, the instant case was registered against the accused facing trial vide FIR Ex.PA.

After completion of investigation, Separate complete challan was submitted by prosecution against the accused facing trial for offence u/s 15-AA. Accused was summoned and legal formalities under Section 241-A Cr. PC were complied with. Formal charge was framed against the accused to which he pleaded not guilty and claimed trial, afterwards prosecution was directed to produce its evidence. Prosecution produced six (06) witnesses to prove its case against the accused. PW constable Muhammad Riaz was abandoned by prosecution and closed its evidence.

3. PW-01 is the statement of Assistant Sub-Inspector Muhammad Ayub. He is IO of the case. After receiving case file for investigation, he

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proceeded to the spot and prepared site plan Ex.PB on the pointation of complainant. He recorded statements of PWs u/s 161 Cr.PC. He also produced the accused before the court for obtaining his physical remand through application Ex.PW-1/1. He sent parcel containing 01 gram ICE to FSL for examination vide application Ex.PW-1/2 along with road certificate Ex.PW-1/3. FSL report in respect of the recovered substance is Ex.PW-1/4. He also recorded statement of accused u/s 161 Cr.PC. After completion of investigation, he submitted complete challan against the accused. Constable Raheem Ullah deposed as PW-02. He has taken parcels containing 01 gram ICE and one 30 bore pistol, in sealed condition, to FSL Peshawar for examination along with application and road certificate. Complainant SI Akhtar Munir deposed as PW-03. He reiterated the story narrated in the FIR. He took into possession the case property vide recovery memo Ex. PW-3/1 in the presence of marginal witnesses. Parcel No. 1 containing 30 bore pistol along with fixed charger containing 07 live rounds of the same bore is Ex.P-1 while parcel containing 29 grams ICE is Ex.P-2. Parcel containing USB is Ex.P-3. Card of arrest of accused is Ex. PW-3/3. Murasila is Ex. PW-3/2. Recovery memo in respect of USB is Ex.PW-3/4. He also pointed out spot to the IO. On the completion of investigation, PW-04 submitted complete challan against the accused facing trial. Challan form is Ex.PW-4/1. PW-05 is the statement of Constable Murad Gul. He is one of the marginal witnesses to the recovery memo Ex.PW-3/1 vide which the

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complainant (PW-03) took into possession 30 bore pistol and 30 grams ICE from possession of accused. He took murasila, recovery memo and card of arrest from the spot to PS for registration of the case. Sub-Inspector Amir Khan was examined as PW-06. He has incorporated the contents of murasila into FIR Ex.PA. He has also made entries in register 19 and DD regarding departure from and arrival to PS of ASHO, extract thereof, are Ex.PW-6/1 to Ex.PW-6/3. Thereafter, prosecution's evidence was closed.

4. On conclusion of prosecution evidence, statement of accused was recorded u/s 342 Cr.PC, in which he professed his innocence, however, he did not opt to record his statement on oath as envisaged u/s 340 (2) Cr.PC, and also did not opt to produce any defense witness in his favour.

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The scanning of the record shows that the alleged occurrence took place on 11.08.2023 at 10:40 hours on metaled road Goen Mor near Sanghra bazar, Lower Orakzai. It was reported at 11:00 hours and FIR

was registered at 11:20 hours. PW-03; SI Akhtar Munir is the complainant while PW-01, ASI Muhammad Ayub is IO of the case.

While going through the record available on file, it is noticed that recovery of 30 bore pistol along with a fixed charger containing 07 live rounds of the same bore has been effected from the personal possession of the accused facing trial which has been substantiated by prosecution through the statements of PW-03 (complainant) and PW-05 (marginal witness). All the PWs are consistent on salient aspect of

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the prosecution version. Positive FSL report Ex.PW-1/4 qua the one 30 bore pistol without number along with 07 live cartridges of the same bore further support the prosecution's case. There is nothing on record which could show any enmity of the police with the accused facing trial so as to suggest his false implication in the case in hand. There is nothing on record which could show that prosecution witnesses are interested and inimical. Furthermore, admissions of material facts have been made during cross examination of PWs. The prosecution witnesses gave detailed pen-picture of the recovery of 30 bore pistol and live cartridges from the personal possession of accused facing trial. The chain of custody remained unbroken. The defense failed to shatter the evidence produced by prosecution despite lengthy cross examination. Furthermore, accused facing trial is habitual. He was released on post arrest bail in the instant case and was again arrested for offences u/s 11-B CNSA, 15-AA and 05 Explosive Substances Act by the local police of PS Mishti Mela vide case FIR No. 44 dated 29.06.2024. There may be minor discrepancies but such discrepancies are not injurious to the case of prosecution.

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6. As prosecution successfully proved its case against the accused facing trial, therefore, accused Shakeel Ahmad is convicted and sentenced for offence u/s 15-AA with simple imprisonment of 06 months. Benefit of Section 382-B Cr. PC is extended to the accused. Accused facing trial is also separately convicted and sentenced for offence u/s 11-A

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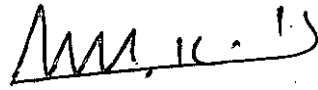
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CNSA. Both the sentences shall run concurrently. Case property be dealt with in accordance with the law.

7. Case file be consigned to record room after its completion and necessary compilation.

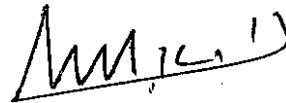
**Announced**  
31.07.2024



**Zahir Khan**  
Judicial Magistrate-I  
Tehsil Courts, Kalaya, Orakzai

**CERTIFICATE**

It is certified that this judgment consists of 06 pages. Each page has been dictated, read, corrected and signed by me.



**Zahir Khan**  
Judicial Magistrate-I  
Tehsil Courts, Kalaya, Orakzai