

(P)

STATE VS HAYAT WALI ETC
FIR No.: 42, Dated: 26.05.2024, u/s 9 (d) CNSA & 512 CrPC, Police
Station: Kalaya

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

SPECIAL CASE NO. : 21/3 OF 2024
DATE OF INSTITUTION : 09.09.2024
DATE OF DECISION : 30.09.2024

STATE THROUGH SHAL MUHAMMAD SHO, POLICE STATION
KALAYA

.....(COMPLAINANT)

-VERSUS-

1. HAYAT WALI S/O MUHAMMAD HANIF
2. ABID S/O MUQARAB KHAN
3. MAJEED S/O ASHNA KHAN
ALL R/O OF CASTE UTMAN KHEL

..... (ABSCONDING ACCUSED)

Present: Umar Niaz, District Public Prosecutor for the State.

FIR No.: 42 **Dated:** 26.05.2024 **U/S:** 9 (d) of the Khyber
Pakhtunkhwa Control of Narcotic Substances Act, 2019 & 512 Cr.P.C.
Police Station: Kalaya

ORDER NO. 06
30.09.2024

DPP, Umar Niaz for the State present. Accused Hayat Wali, Abid and Majeed are absconding. PWs Minhaz Hussain OII, Shal Muhammad SHO, Constable Saif Ullah, Asmat Ali AMHC and Constable Iftikhar Hussain present and examined as PW-1 to PW-5 respectively. The prosecution abandoned the 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 26.05.2024, the complainant, Shal Muhammad SHO/PW-2 received information regarding smuggling of narcotics via motorcycle by accused Hayat Wali, Abid and Majeed from Indara to

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Syed Obaidullah Shah
District & Sessions Judge
Orakzai at Baber Mela
30/9/24

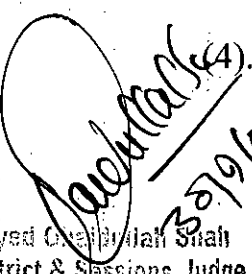
6

STATE VS HAYAT WALI ETC.

FIR No.: 42, Dated: 26.05.2024, u/s 9 (d) CNSA & 512 CrPC, Police Station: Kalaya

Manzakhe Bara. The complainant/PW-2 with constables Saif Ullah/PW-3, Faheem Asghar and HC Shabbir Khan, acting on this information, laid a picket on the spot where at about 1030 hours two motorcycles carrying bags on way towards the picket were tried to stop by the complainant/PW-2 but they accelerated their motorcycles, abandoned the bags and made their escape good from the spot. The complainant/PW-2 recovered 14 packets of chars wrapped with yellow colour scotch tape from each of the three bags. Each packet upon weightment amounted to 1000 grams, making a total of 42,000 grams of chars. The complainant/PW-2 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 with the empty bags were sealed in different parcels, by affixing/placing monogram of 'SH' on all parcels. The complainant/PW-2 took into possession the recovered chars and the motorcycle without registration number vide recovery memo Ex. PC. Murasila Ex. PA was drafted and sent to the Police Station through constable Saif Ullah/PW-3 which was converted into FIR Ex. PA/1 by Asmat Ali AMHC/PW-4.

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


35/9/24
Syed Ghazal Wahid Shah
District & Sessions Judge
Orakzai & Baber Meela

7

STATE VS HAYAT WALI ETC.

FIR No.: 42, Dated: 26.05.2024, u/s 9 (d) CNSA & 512 CrPC, Police
Station: Kalaya

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 facie case has been made out against the absconding accused **Hayat Wali, Abid and Majeed**; hence, they are declared proclaimed offenders. Perpetual warrants of arrest be issued against them and District Police Officer, 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: 30.09.2024



Obaidullah Shah
30/9/24

SYED OBAIDULLAH SHAH
Sessions Judge/Judge Special Court,
Orakzai at Baber Mela