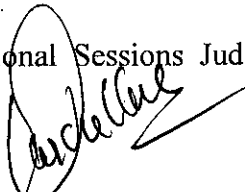

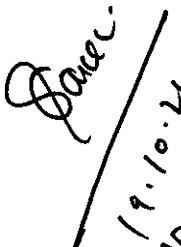


3

IN THE COURT OF ADDITIONAL SESSIONS JUDGE-I, ORAKZAI AT BABER MELA

Case Title: STATE VS NEK MUHAMMAD

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. 01	14.10.2024	Entrusted to the court of learned Additional Sessions Judge-I, Orakzai.  (SYED OBAIDULLAH SHAH) Sessions Judge, Orakzai at Baber Mela
Order No. 02	14.10.2024	Case file received from the court of Hon'ble District & Sessions Judge, Orakzai. It be registered. Accused Nek Muhammad is on bail. He be summoned for 19.10.2024.  (BAKHT ZADA) Addl: Sessions Judge-I, Orakzai at Baber Mela
Order No. 03	19.10.2024	Sr.PP, Abul Qasim for the State present. Accused, Nek Muhammad on bail not present; however, Learned DPP for the State submitted application for discharge of the accused U/S 4(C), 5(b) of the Prosecution Act, 2005. Brief facts of the case are that that complainant Nasir Ahmad SHO sent a written Murasila through constable Wajid Ullah no. 320 in the official vehicle being driven by Muhammad Ayyaz no. 1348, to the effect that he was present on the metaled road Mandara Khel check post at the distance of 15/16 km towards east from the Police Station, meanwhile, a motorcycle coming from Anjani Bazar side on which two persons were riding, was stopped. The person present on the rear seat of the motorcycle, jumped and threw a cloth sack he was followed but he hide himself in the nearby mountains. The cloth sack thrown by the accused was searched, which was consisted of 710 grams of opium. The rider of motorcycle disclosed his name as Nek Muhammad s/o Kulcha khan r/o Bezot. 10 grams were separated for purpose of FSL and remaining quantity of 700 grams was sealed into another parcel no. 2 whereas the empty sack sealed into parcel no. 3. Videography was filmed which was saved in USB and sealed the  BAKHT ZADA Addl: District & Sessions Judge Orakzai at Baber Mela

Case Title: STATE VS NEK MUHAMMAD

**Contin.
Order No.03**

same in parcel no. 4. A monogram of 'NA' affixed/placed on all the parcels. Accused was cursory interrogated by the local police and revealed that he was going from Anjani to Karghan and on the way one, Ilyas carrying the sack, took lift him, as he was also going to Karghan. Hence the present case.

(2). After completion of investigation, the prosecution submitted challan alongwith application for discharge of the accused under section 4C (2), 5b of the prosecution Act, 2005 read with section 494 Cr. PC.

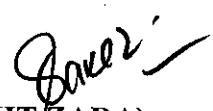
(3). Arguments heard and record perused and available record perused which shows that the person who threw the alleged narcotics is neither known to the driver of the motorcycle, nor he was apprehended at the spot. Allegedly the driver of the motorcycle has disclosed the name of the accused but his statement cannot be relied upon without any corroborative evidence on the case file. The recovery has not been made from personal possession of accused facing trial. The driver accused had been arrested in the instant case and he was already released on bail by the court Hon'ble District & Session Judge, Orakzai vide order dated 06.08.2024 and later on, acquitted u/s 265-K Cr. PC. When the prosecution has failed to make out a case against the person who was arrested at the spot and despite that no connection was proved with the accused Muhammad Ilyas s/o Lal Khan during the course of investigation. In these circumstances, the application of the Prosecution for discharge of the accused being genuine is hear by accepted.

(4). It is evident from the above that that neither the accused was apprehended on the spot nor was any direct recovery effected from his personal possession. In the instant case the accused has been charged on the basis of the statement of the arrested accused namely Nek Muhammad.

(5). In view of what is discussed above, it is held that there is no ground to proceed against the above-named accused; therefore, on acceptance of the application of prosecution, the accused named above is discharged of the offence.

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

Dated: 19.10.2024


(BAKHT ZADA)
Addl: Sessions Judge-I, Orakzai
at Baber Mela