

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

In Re:

Service Appeal No. 601/2024

Muhammad Afaq Ex-ASI.....(Appellant)

V E R S U S

Provincial Police Officer Khyber Pakhtunkhwa Peshawar and
two others.....(Respondents)

I N D E X


S.No.	Description of Documents	Annex	Pages
1.	Rejoinder		1-10
2.	Affidavit		11
3.	Copy of "Murasila", Recovery Memo, Site Plan, FSL and Arrest Card	A&B	12-19
4.	Copy of Challan bearing endorsement of DPP	C	20-21
5.	Copy of charge and order of trial Court	D&E	22-26


Appellant

Through

Dated: 05/09/2024


Zahoor Islam Khattak

& 
Muneeb ur Rehman
Advocates High Court,
Peshawar.
Cell No. 0346-9083579

11

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,

PESHAWAR.

In Re:

Service Appeal No. 601/2024

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 15480

Dated 06.09.2024

Muhammad Afaq Ex-ASI.....(Appellant)

V E R S U S

Provincial Police Officer Khyber Pakhtunkhwa Peshawar and
two others.....(Respondents)

REJOINDER ON BEHALF OF
APPELLANT.

Respectfully Sheweth:

PRELIMINARY OBJECTION:

Almost all the eight preliminary objections raised by respondents are evasive and vague. There is no cavil with the preposition that police officers are civil servants for invoking jurisdiction of Service Tribunal in Service Appeals. Appellant while serving police establishment as Assistant Sub Inspector (ASI) was rendered to disciplinary action on the basis of hallowed charges which culminated in passing the impugned order of his removal from service. Appellant after exhausting the departmental remedies, filed the instant Service Appeal Under

2)

Section 4 of the Khyber Pakhtunkhwa Service Tribunal Act, 1974. Therefore appellant has got every right and cause of action to file the Service Appeal. The appeal is maintainable and proper parties have been made. The respondents have wrongly raised the conventional objection of estoppel, and not coming to the tribunal with clean hands.

**IN RESPONSE TO THE COMMENTS
OF RESPONDENTS ON FACTS:**

1. That the respondents have admitted Para-I of the appeal, therefore needs no reply.
2. That the respondents have admitted Para-2 of the appeal but has wrongly criticized and attached the conduct of appellant beyond the charges leveled in the charge sheet which small malafide on the part of respondents.
3. That respondents have admitted that on 19/03/2023 appellant while posted as ASI in Police Station (PS) Doaba District Hangu/ during patrol duty booked Hayat Ullah (Complaint Maker) on charges of Commission of the offence of rash and

negligent riding and possession of narcotics. The said Hayat Ullah did not oblige the signal of Police and made abortive attempt of fleeing away by rashly and negligently riding the Motorcycle but the police party headed by appellant made hot pursuit of Hayat Ullah and recovery of 120 grams chars gardah was made from his possession. Appellant drafted "Murasila" for registration of criminal case against Hayat Ullah. Appellant also secured into possession the narcotics recovered from Hayat Ullah vide recovery memo. (Copy of "Murasila" and Recovery Memo are enclosed as annexure "A" & "B" respectively). The "Murasila" was transmitted to Police Station and the Muharrar Staff incorporated the contents of Mursila into FIR No. 160/2023. (Copy of F.I.R is already enclosed as annexure "B" with main appeal). Investigation in the case was entrusted to Fazal Badshah Officer Incharge investigation (OII). He after conducting necessary investigation, handed over the case file to SHO for onward submission to Trial Court for favour of trial of the accused. SHO submitted challan and put it in Court through District Public Prosecutor (DPP). (Copy of Challan bearing endorsement of DPP is

4)

enclosed as annexure "C"). Hayat Ullah after grant of bail, submitted false complaint against appellant that appellant has not shown recovery of 500 Riyals. Appellant was proceeded against departmentally which culminated in passing the impugned order. Oii, SHO and DPP admitted and endorsed the action of appellant against accused Hayat Ullah but the Departmental Inquiry Officers wrongly accepted the complaint of Hayat Ullah accused. Trial Court also enclosed the action of appellant against Hayat Ullah as the Court framed charge against him and summon the prosecution witnesses but in the meanwhile APP plead request before Court for withdrawal of the case Under Section 494 Cr.PC as there were technical lacunas in the case. (Copy of charge and order of trial Court are enclosed as annexure "D" & "E"). it is crystal clear that the complaint was made by accused person against police officer (appellant) who had booked the accused in narcotics case. Therefore, the complaint was after thought story and was made with sole aim to render appellant to disciplinary action and create doubt in the criminal case.

4. That respondents have wrongly contended that Case FIR No. 160/2023 mentioned above was maliciously registered by appellant. This is on the record that Oii, SHO, DPP and Trial Court admitted the case. In case it was maliciously registered then why cancellation report was submitted in the case.
5. That respondents have not answered this para therefore needs no reply, however, appellant have produced duties of the matter in Para-3 of the replication.
6. That respondents have failed to properly answer Para 6 of the appeal. The case registered on the basis of "Murasila" report of appellant was admitted by Oii, SHO, DPP and Trial Court. Appellant was wrongly punished on the basis of false complainant of accused persons lodged for creating doubt in the criminal case and case of agony and injury to appellant.
7. Incorrect, the defense of appellant was not considered. Hayat Ullah made complaint against

6)

appellant with ulterior motive of tranship the image of appellant and creating doubt in the case.

8. That the reply of respondents in to Para-8 of the appeal is wrong inquiry officer neither examined OII nor SHO. Furthermore, Inquiry Officer did not consider the evidence of Lal Mir, Eid Manoor, Shoukat Aman and Lal Muhammad which were favourable to appellant. He relied upon the evidence of won over constable.
9. Needs no reply as respondents have admitted this Para.
10. Needs no reply as respondents have admitted this Para.
11. Incorrect, appellant has got good cause of action and has advanced plausible and solid grounds of the appeal.

IN RESPONSE TO COMMENTS OF RESPONDENTS ON GROUNDS:

- A. That comments of respondents are conventional. The respondents did not consider the opinion of OII,

SHO, DPP and trial Court, hence the impugned orders illegal and unlawful.

B. That Comments of respondents are evasive. The impugned orders have been based on defective inquiry according detail explanation with regard to defects in the inquiry proceedings have already been produced in preceding paras especially in Para 8 of the replication.

C. That respondents have completely misconstrued, misconceived and misinterpreted Para-C of the grounds of appeal. Respondents have wrongly held appellant involved in departmental charges and criminal charges. Admitted by appellant was proceeded against departmentally but in the criminal case appellant was complainant and Hayat Ullah (complaint maker) was charged. The case law referred to by respondents is not applicable in the case of appellant, therefore respondents have concealed the actual facts and has made attempt of misleading the Hon'ble Tribunal.

D. That respondents have submitted reply without examining record of the criminal case under review. The criminal Case FIR No. 160/2023 mentioned

above was registered on the basis of "Murasila" drafted by appellant. The case was admitted by OII, SHO, DPP and trial Court therefore question of malicious registration of case does not arise. The contention of respondents is contradictory to their own record and conduct.

E. That the reply of respondents is incorrect. appellant was removed from service on the basis of complaint lodged by Hayat Ullah accused who was booked by appellant in criminal case on charges of commission of the offences of rash and negligent riding and possession of 120 Grams Chars "Gardah". The lawful action taken by appellant against the said complaint maker was reported true by OII during investigation, SHO while submitting challan against the accused (Complaint maker) and DPP who put in Court the case.

F. That respondents have offered no comments in response to this para, therefore needs no reply.

G. That respondents have offered no comments in response to this para, therefore needs no reply.

H. That the comments of respondents in response of Para "H" of the grounds of appeal are not tenable. Appellant has already submitted details of the defects of the inquiry proceedings in the preceding Para's of the rejoinder, therefore no need of its replication.

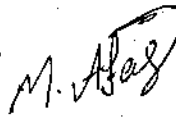
I. That comments of respondents in response to Para "i" of the grounds of appeal are not sustainable. Appellant has not treated in accordance with law. Appellant was punished on the basis of complaint lodged by accused who was involved in narcotics case. Respondents challenged the case to Court and punished appellant who was material witness in the case registered against complaint marker. The credit of material witness in the criminal case was impugned by respondents by issuance of impugned orders and thus created doubt in the criminal case.

J. That respondents have furnished hallowed comments. Appellant was removed from service for commission of no wrong and misconduct. Appellant filed the service appeal after exhausting departmental appeal therefore appellant has got

every right and cause of action to file the instant service appeal.

K. That the comments of respondents are not sustainable appellant was recruited against Shuhada Son's quota and the monthly salary was the only source of income of the entire family. Furthermore, the father of the appellant embraced "Shahadat" in line of duty in the year 2003 and by the time grant of monthly salary to the wards of Shaheed till age of superannuation followed by pension benefits was not included in the Shaheed Package. Therefore, appellant family have no source of income and are dependent on material cum paternal uncles.

It is, therefore, humbly prayed that the appeal of the appellant may be accepted with all back and consequential beck benefits.



Appellant

Through



Dated: 05/09/2024

Zahoor Islam Khattak

& 
Muneeb ur Rehman
Advocates High Court,
Peshawar.

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,
PESHAWAR.

In Re:

Service Appeal No. 601/2024

Muhammad Afaq Ex-ASI.....(Appellant)

V E R S U S

Provincial Police Officer Khyber Pakhtunkhwa Peshawar and
two others.....(Respondents)

AFFIDAVIT

I, **Muhammad Afaq** (Ex-ASI) (Appellant), do hereby
solemnly affirm and declare on oath that the contents of the
accompanying **Rejoinder** are true and correct to the best of
my knowledge and belief and nothing has been concealed from
this Hon'ble Tribunal.



M. Afaq

DEPONENT
Muhammad Afaq
(Ex-ASI)

CNIC No. 14203-6119715-7

03/10/13

Handwritten notes in Urdu script, including a large number 2985860000 and various lines of text.

9225A 279

Handwritten notes at the bottom, including the number 1210 and 193.

Handwritten signature and the number (4)

(12)

(18)

03/10/23

19.3.23
AST / S. Dobra

M. M. M.
The following is a list of the names of the people who were present at the meeting on 19.3.23.

EXAMINER
COPYING AGENCY HANDBOOK

UNITED STATES

19-3-23

Asst. J. Deeba

M. Had

Handwritten notes in Arabic script, including a phone number 98586098605.

APCNSA
193

Handwritten signature and date 14.

(11)

Handwritten notes at the bottom left corner.

Handwritten notes at the top left, partially obscured.

Handwritten notes at the top center, partially obscured.

03/01/23

P-7

1. The first part of the document is a list of names and their corresponding positions. The names are written in Urdu and include:

- 1. Mr. A. B. Khan, Director
- 2. Mr. C. D. Khan, Deputy Director
- 3. Mr. E. F. Khan, Assistant Director
- 4. Mr. G. H. Khan, Section Officer
- 5. Mr. I. J. Khan, Junior Section Officer
- 6. Mr. K. L. Khan, Clerk
- 7. Mr. M. N. Khan, Peon

2. The second part of the document is a list of names and their corresponding positions, written in Urdu. The names are:

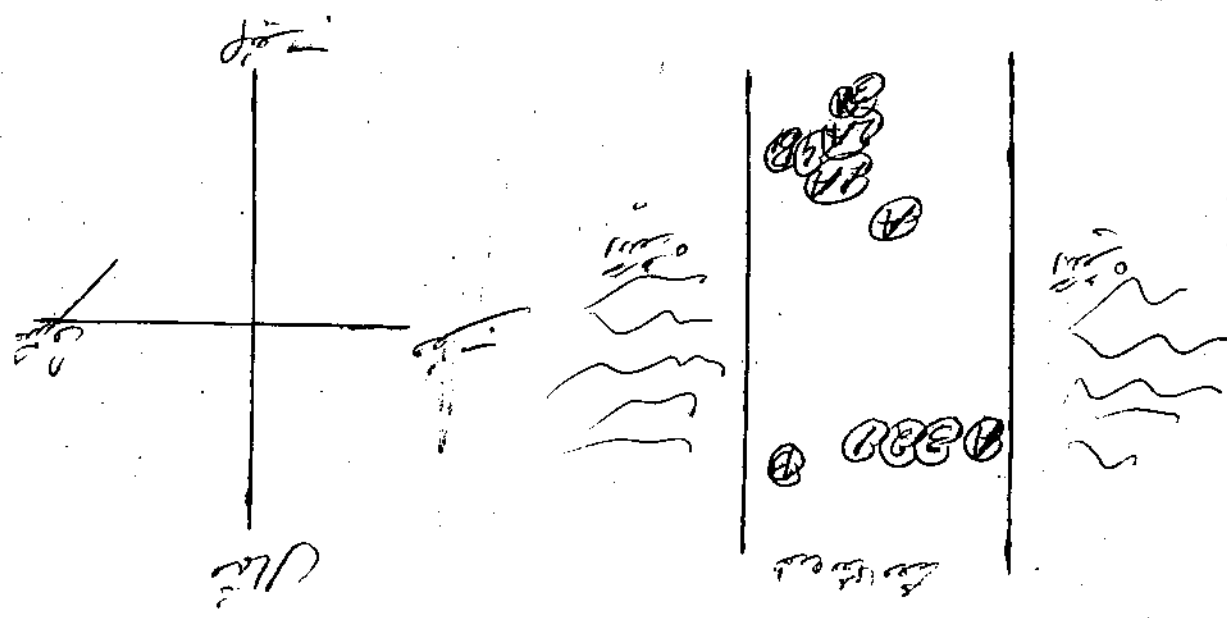
- 1. Mr. P. Q. Khan, Director
- 2. Mr. R. S. Khan, Deputy Director
- 3. Mr. T. U. Khan, Assistant Director
- 4. Mr. V. W. Khan, Section Officer
- 5. Mr. X. Y. Khan, Junior Section Officer
- 6. Mr. Z. A. Khan, Clerk
- 7. Mr. B. C. Khan, Peon

3. The third part of the document is a list of names and their corresponding positions, written in Urdu. The names are:

- 1. Mr. D. E. Khan, Director
- 2. Mr. F. G. Khan, Deputy Director
- 3. Mr. H. I. Khan, Assistant Director
- 4. Mr. J. K. Khan, Section Officer
- 5. Mr. L. M. Khan, Junior Section Officer
- 6. Mr. N. O. Khan, Clerk
- 7. Mr. P. Q. Khan, Peon

4. The fourth part of the document is a list of names and their corresponding positions, written in Urdu. The names are:

- 1. Mr. R. S. Khan, Director
- 2. Mr. T. U. Khan, Deputy Director
- 3. Mr. V. W. Khan, Assistant Director
- 4. Mr. X. Y. Khan, Section Officer
- 5. Mr. Z. A. Khan, Junior Section Officer
- 6. Mr. B. C. Khan, Clerk
- 7. Mr. D. E. Khan, Peon



5. The fifth part of the document is a list of names and their corresponding positions, written in Urdu. The names are:

- 1. Mr. F. G. Khan, Director
- 2. Mr. H. I. Khan, Deputy Director
- 3. Mr. J. K. Khan, Assistant Director
- 4. Mr. L. M. Khan, Section Officer
- 5. Mr. N. O. Khan, Junior Section Officer
- 6. Mr. P. Q. Khan, Clerk
- 7. Mr. R. S. Khan, Peon

6. The sixth part of the document is a list of names and their corresponding positions, written in Urdu. The names are:

- 1. Mr. T. U. Khan, Director
- 2. Mr. V. W. Khan, Deputy Director
- 3. Mr. X. Y. Khan, Assistant Director
- 4. Mr. Z. A. Khan, Section Officer
- 5. Mr. B. C. Khan, Junior Section Officer
- 6. Mr. D. E. Khan, Clerk
- 7. Mr. F. G. Khan, Peon

7. The seventh part of the document is a list of names and their corresponding positions, written in Urdu. The names are:

- 1. Mr. X. Y. Khan, Director
- 2. Mr. Z. A. Khan, Deputy Director
- 3. Mr. B. C. Khan, Assistant Director
- 4. Mr. D. E. Khan, Section Officer
- 5. Mr. F. G. Khan, Junior Section Officer
- 6. Mr. H. I. Khan, Clerk
- 7. Mr. J. K. Khan, Peon

8. The eighth part of the document is a list of names and their corresponding positions, written in Urdu. The names are:

- 1. Mr. V. W. Khan, Director
- 2. Mr. X. Y. Khan, Deputy Director
- 3. Mr. Z. A. Khan, Assistant Director
- 4. Mr. B. C. Khan, Section Officer
- 5. Mr. D. E. Khan, Junior Section Officer
- 6. Mr. F. G. Khan, Clerk
- 7. Mr. H. I. Khan, Peon

COPIED ASSISTANT

19/03/23

19/03/23

DL-PS-Deena

Handwritten signature

Handwritten notes and signatures

Handwritten notes on the right side

173

(17)

Ans (B)



Forensic Science Laboratory

Police Investigation, Khyber Pakhtunkhwa

Certification Report of test or analysis by the Government Analyst

For Narcotics & Psychotropic Substances (Form-II)

(Admissible Evidence under Section 510 Cr. PC and u/s 34/35/47 CNSA 199)

1. Laboratory No. CE 10-11849-0-2023 Dated 21-03-2023

Received ONE Sealed Parcels marked as 1

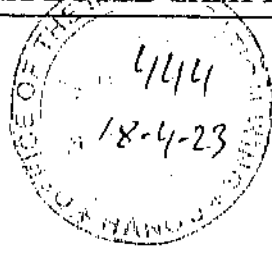
Bearing 3 Seals in the marks of AK

From FC NO:80 In case:-

EIR No. 160 dated 19-3-23 U/S 9CCNSA/279 PPC P/S DOABA District HANGU

2. The seals on the parcels were found intact. The seals were opened in our presence which Contained.

PARCEL NO.	NET WEIGHT/VOLUME OF THE SUSPECTED SAMPLES
P.NO.1:-	=5.0gms.



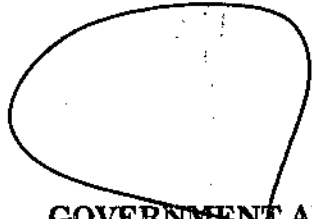
The above articles were duly examined by the undersigned while following the Tests/ analysis protocols in line with united Nation office on Drugs and Crime (UNODC) guidelines and Scientific Working Group for the Analysis of Seized Drugs (SWGDRUG) details overleaf. The above articles were consumed during examination.

OPINION:- The Samples in question were Subjected to Physical and chemical test/analysis revealed that

IT WAS CHARAS IN P.NO.1. ✓

*10 PS Doaba
For analysis*

[Signature]
Superintendent of Police
Investigation Bureau
Hangu



GOVERNMENT ANALYST
FOR NARCOTICS, PSL PESHAWAR
TO GOVERNMENT OF KHYBER PAKHTUNKHWA

No. 5357 /FSL, dated 10/4/2023

The opinion of Govt Analyst for Narcotics is forwarded to the SP/INV: HANGU

NOTE:- This report carries emboss Mark.

[Handwritten notes and dates]
03/10/23

[Signature]
Director
Forensic Science Laboratory
Police Investigation, Khyber Pakhtunkhwa,
Peshawar
Ph: 091-9217394 Fax: 091-9217251

Handwritten notes in the top left corner, including numbers like 228858822 and 5/1/23.

(18)

TEST/ANALYSIS PROTOCOLS

SAMPLE NO. 1

PHYSICAL APPEARANCE: Brown Solid

CHEMICAL TESTS:

TEST APPLIED	PROTOCOLS	RESULTS
Duquenois-Levine	Take reasonable quantity of the suspected material in test tube and Add Reagent 6 _A shake for few seconds then Add reagent 6 _B and wait for color change if change occurred then add reagent 6 _C and see lower layer if purple color appearance occurred then positive result indicated or vise versa.	Positive

THIN LAYER CHROMATOGRAPHY (TLC):

Dissolving solvent: Methanol

Mobile phase: Hexane : Ethyl Acetate (9:1)

TLC Plate: Merck

UV: 254 nm

Results Positive

REFERENCE:

Rapid testing method of drugs of abuse (UNODC)
Recommended Scientific Working Group for the Analysis of Seized Drugs (SWGDRUG)

CHEMICAL EXPERT AC/40

Stamp: 03/10/23

4196 02/10/23
Date of presentation of specimen 03/10/23
Date on which copy completed 03/10/23
Date on which copy was checked 03/10/23
Number of Words 10
Pages No. 1
Name of Compiler AC/40
Date 03/10/23

GOVT. ANALYST FOR NARCOTICS

Handwritten notes at the top of the page, including the word "RESEARCH" and other illegible text.

AMERICAN AGENCY HANDBOOK

DATE 03/10/53

AMERICAN AGENCY HANDBOOK

mb

dir

2/28 1953

Dr. J. S. Deane

Handwritten signature or name

Handwritten notes in the middle section

Handwritten notes at the bottom of the middle section

Handwritten notes at the bottom of the page, including "193" and "9625A"

Handwritten notes at the very bottom

Handwritten notes at the very bottom right

صفحہ نمبر

فارم چالان مکمل



قلم No. ANSA / 279 رقم 19-03-0933 مرز 160

6	تفصیل	4	3		2	1
			طراز	زیر نگرانی		

صفحہ نمبر 1	تفصیل	تفصیل	بجائز	طراز	زیر نگرانی	موزان جو کراؤنڈ ہوئے ہوں۔ بشمول مفروضان	مستحق
ملاوت مضامین کے جو مضامین	1	2					
صفحہ 1903 کو طور پر مقررہ مضامین	2	3					
میں سے تمام مضامین نظر آئے	3	4					
ملاوت مضامین کے مضامین	4	5					
میں سے تمام مضامین نظر آئے	5	6					
ملاوت مضامین کے مضامین	6	7					
میں سے تمام مضامین نظر آئے	7						

P-5-0

03332-9144-561

CERTIFIED COPY
EXAMINEE
COPYING AGENCY HANGON

Amir (C)

Handwritten text in Urdu script, likely a legal document or court order. The text is written in a cursive style and appears to be a formal communication. It includes several lines of text, some of which are partially obscured by a diagonal line. The text is written in black ink on a light-colored background.

34/03/023
Daba

District Public Prosecutor
Hangu

PUT IN COURT

CERTIFIED TRUE COPY
DATE: 03/10/23
COPYING AGENCY HANGU

10

(22) Annex (D)

**IN THE COURT OF HAYAT GUL MOHMAND,
SESSIONS JUDGE/JUDGE SPECIAL COURT, HANGU.**

FORMAL CHARGE

CNSA No.348/III-N of 2023

FIR No.160 dated 19.03.2023 under Section 9 (c) CNSA Police Station Doaba, District Hangu.

I, Hayat Gul Mohmand Sessions Judge/Judge Special Court Hangu, do hereby charge you accused:

Hayat Ullah S/o Mir Azam Khan aged about 25 years R/o Sangroba Qaum Wazir post office Sadda Gula Shang Wazir, Tehsil FR Kurram District Kurram as follows: -

Firstly, that on 19.03.2023 at 11:40 hours, at Tora Wari road near Algadda, falling within the criminal jurisdiction of Police Station Doaba, you accused was found driving your Motorcycle bearing Registration No.F5591/Hangu rash and negligently and thereby endangered human life. Thus, you accused thereby committed an offence punishable u/s 279 PPC. Within the cognizance of this Court.

Secondly: That on the same date, time and place, local police during body search from side pocket of your shirt recovered one plastic bag of white colour containing chars gardah which on weighing on spot through digital scale were found 120 grams. Thus, you accused thereby committed an offence punishable u/s 9 (c) CNSA. Within the cognizance of this Court.

And I hereby direct that you accused shall be tried by this Court on the said charge.

RO & AC
27.06.2023


Hayat Gul Mohmand
Sessions Judge/JSC, Hangu

Note: The charge has been read over and explained to accused.

Q. Have you heard and understood the charge?

A. Yes.

Q. Do you want to plead guilty or claim trial?

A. I do not plead guilty and claim trial.

Hayat Ullah..... (Accused)


Hayat Gul Mohmand
Sessions Judge/JSC Hangu

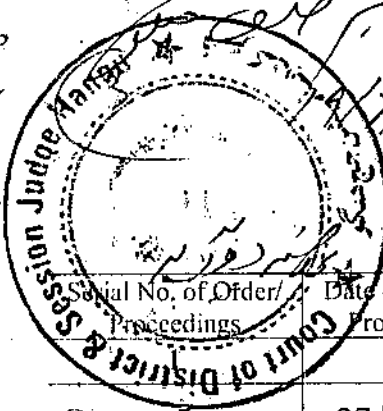
CERTIFICATE u/s 364 (2) Cr.P.C

That charge has been framed in my presence, hearing and on my dictation. The same is read over and explained to accused in his native language.


Hayat Gul Mohmand
Sessions Judge/JSC Hangu

CERTIFIED

02/03/10/23
EXAMINED
COPYING AGENCY HANGU
747



9370
2/6/23
348/2023
17/23
19/3/23
160 300

FORM "A"
FORM OF ORDER SHEET

Court of
Case No.

Serial No. of Order/ Proceedings
Date of Order or Proceedings
Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary

Serial No. of Order/ Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
O.....5	27.06.2023	<p>Accused on bail with counsel present. Mr. Muhammad Haseeb APP for the State present. Formal charge framed against accused to which he pleaded not guilty and claimed trial. PWs complainant/seizing officer and marginal witnesses be summoned for 19.07.2023.</p> <p style="text-align: center;"><i>H</i> Hayat Gul Mohmand Sessions Judge/JSC Hangu</p>
O.....6	19.07.2023	<p>Accused on bail present. Mr. Shahzad Ahmad APP for the State present and submitted application for discharge of accused u/s 494 Cr.P.C on the basis of lacking of evidence. Arguments heard and available record perused.</p> <p>This is a case registered against accused Hayat Ullah S/o Mir Azam Khan R/o Sangroba Quam Wazir Sadda, Gula Shang Wazir, Tehsil FR Kurram, District Kurram for rash and negligent driving of motorcycle bearing Registration No.F-5591/Hangu, recovery of 120 grams chars gardah, Pakistani Currency Rs. 8000, Qatar Riyal two notes of 10 riyal, one note of 5 riyal and one foreign country driving license bearing No.29858602086 vide FIR No.160 dated 19.03.2023</p> <p style="text-align: center;"><i>H</i> HAYAT GUL MOHMAND Sessions Judge/JSC Hangu</p>

CERTIFIED
03/10/23
EXAMINED
COPYING AGENCY HANGU

(24)

FORM "A"
FORM OF ORDER SHEET
Court of Sessions Judge, Hangu

Case No.....

Serial No. of Order/ Proceedings 1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary 3
	<p>Contd:06 19.07.2023</p> <p style="text-align: right;">19/7/2023 Sessions Judge Judge Special Court, Hangu</p>	<p>U/ss 279 PPC and 9-(c) of the Khyber Pakhtunkhwa CNSA, 2019 P.S. Doaba, Hangu.</p> <p>Learned Assistant Public Prosecutor has submitted application for withdrawal from prosecution against accused u/s 494 Cr.P.C on the grounds that directions regarding digital evidence in light of judgment of Hon'ble Supreme Court of Pakistan has not been implemented i.e video recording of spot proceeding, CDR data regarding presence of Seizing Party at the spot etc. That seizing officer is below the rank of sub inspector who is not authorized officer in Control of Narcotics Substance Act 2019, for making recovery of narcotics. That no private previous criminal history of accused is placed on file. That no private person has been associated with recovery proceedings. That accused has not confessed his guilt before the competent court. That in the peculiar facts and circumstances, mere continuation with trial would be a futile exercise, sheer wastage of time. That there is no probability of conviction of accused in instant case on the basis of available evidence. Hence discharge of accused was prayed for.</p>

CERTIFIED TRUE COPY

03/10/23
EXAMINED
COPYING AGENCY HANGU

(25)


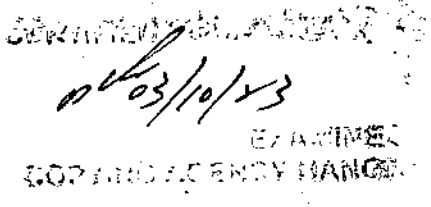
Serial No. of Order/ Proceedings 1	Date of Order or Proceedings 2	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary 3
	<p><u>Contd:6</u> 19.07.2023</p>	<p>After hearing arguments, I have come to the conclusion that complainant in recovery memo, it has been mentioned that one monogram of A.K was kept inside parcel No.1 containing 05 grams chars. The keeping of one monogram of A.K in parcel No.1 is not proved from FSL report as there is no mention that the same contained one monogram in the name of A.K.</p> <p>There is no CDR report of cell number of accused to show as to whether actually accused was arrested at the place mentioned in the FIR or otherwise. Moreover, CDR of complainant and other marginal witnesses have not been placed on file. Thus, instant case lacks digital evidence in shape of video recording of spot proceedings, capturing photographs of accused and recovered contraband, CDR report of seizing party and accused showing their presence on spot.</p> <p>There is no admission or confession on part of accused facing trial. No previous conviction history of accused in such like cases is available on file.</p> <p>Therefore, in view of the above while concurring with application of learned APP, accused Hayat Ullah stands acquitted. He is on bail; his bail bonds stand cancelled and his sureties are discharged from their liabilities. Case property i.e. motorcycle bearing Registration No.F-5591/Hangu, Pakistani</p>

14
19/7/2023
HANGU
MAGISTRATE
FIR NO. 101/2023

03/10/23
EXAMINER
COPYING AGENCY HANGU

6

(26)

Serial No. of Order/ Proceedings	Date of Order or Proceedings	Order or other Proceedings with Signature of Judge or Magistrate and that of parties or counsel where necessary
1	2	3
	<p><u>Contd:6</u> 19.07.2023</p>	<p>Currency Rs. 8000, 25 Qatar Riyal and one foreign country driving license bearing No.29858602086 has already been returned to accused vide order No.3 dated 04.04.2023 by learned Additional Sessions Judge-III, Hangu. Sureties to that extent also stand discharged from liabilities of bonds. Case property i.e. 120 grams chars be destroyed after expiry of appeal/revision. File be consigned to record room after its completion and compilation.</p> <p><u>Announced</u> 19.07.2023</p> <p style="text-align: right;">  Hayat Gul Mohmand Sessions Judge/JSC Hangu </p> <p style="text-align: center;">  03/10/23 GOVERNMENT AGENCY HANGU </p>