





(2) In the case of offences punishable under this Act, bail shall not ordinarily be granted unless the Court is of the opinion that it is a strong case for the grant of bail and against the security of a substantial amount."

7. Insertion of new sections to the Khyber Pakhtunkhwa Act No. XXXI of 2019.—In the said Act, after section 34, the following new sections shall be inserted, namely:

34A. Articles connected with narcotics.— (1) Whenever any offence has been committed which is punishable under this Act, the narcotic drug, psychotropic substance or controlled substance, materials, apparatus and utensils in respect of which, or by means of which, such offence has been committed shall be liable to confiscation.

(2) Any narcotic drug, psychotropic substance or controlled substance imported, transported, manufactured, possessed, or sold lawfully or otherwise alongwith, or in addition to, any narcotic drug, psychotropic substance or controlled substance which is liable to confiscation under sub-section (1) and the receptacles or packages, and the vehicles, vessels and other conveyances used in carrying such drugs and substances shall likewise be liable to confiscation:

Provided that no vehicle, vessel or other conveyance shall be liable to confiscation unless it is proved that the owner knew that the offence was being, or was to be, committed.

34B. Procedure for making confiscation.— (1) In the trial of offences under this Act, whether the accused is convicted or acquitted, the Special Court shall decide whether any article frozen or seized in connection with such offence is liable to confiscation.

(2) Where any article seized under this Act appears to be liable to confiscation under section 34A, but the person who committed the offence in connection therewith is not known or cannot be found, the Special Court may inquire into and decide such liability, and may order confiscation accordingly:

Provided that no order of confiscation of an article shall be made until the expiry of one month from the date of freezing or seizure, or without hearing any person who may claim any right thereto and the evidence, if any, which he produces in respect of his claim:

Provided further that if any such article other than a narcotic drug, psychotropic substance or controlled substance is liable to speedy and natural decay or in case of a vehicle, the Director General or any other officer authorized by him through notification in the official Gazette, is of

opinion that the sale of such article or vehicle is for the benefit of its owner, he may, with the approval of the Special Court, after due notice to the owner and by public auction, direct that the article or, as the case may be, the vehicle be sold in accordance with the rules made under this Act and the sale proceeds shall be deposited in the Government Treasury for Drug Abuse till the final judgment of the court.

(3) If on adjudication, or as the case may be, in case of appeal the vehicle or, as the case may be, an article so sold is found not to have been liable to such confiscation, the entire sale proceeds shall be handed over to the owner.

(4) Unless otherwise prescribed a narcotic drug, psychotropic substance or controlled substance seized under this Act shall be disposed of under section 516A of the Code."

8. Amendment of section 44 of Khyber Pakhtunkhwa Act No. XXXI of 2019.—In the said Act,—

- (a) the existing section 44 shall be numbered as sub-section (1) of section 44 and in sub-section (1) as so numbered, for the word "Government" the words "Department with the approval of Chief Minister" shall be substituted; and
- (b) after sub-section (1), as so numbered, the following new sub-section shall be added, namely:

"(2) Department, in consultation with Secretary to Government, Home and Tribal Affairs Department may declare one or more existing police stations under the Khyber Pakhtunkhwa Police Act, 2017 as Excise Police Station for the purposes of this Act."

9. Amendment of section 45 of Khyber Pakhtunkhwa Act No. XXXI of 2019.—In the said Act, in section 45, in sub-section (1), for the word "Government" the word "Department" shall be substituted.

10. Amendment of section 46 of Khyber Pakhtunkhwa Act No. XXXI of 2019.—In the said Act, in section 46, in sub-section (3), for the word "Government" the word "Department" shall be substituted.

11. Amendment of section 59 of Khyber Pakhtunkhwa Act No. XXXI of 2019.—In the said Act, in section 59, after sub-section (2), the following new sub-section shall be added, namely:

~~GOVERNMENT OF KHYBER PAKHTUNKHWA~~  
"(3) All the actions taken, proceedings commenced and things done, by the Department of Police, from 4<sup>th</sup> of September, 2019 till the commencement of the Khyber Pakhtunkhwa Control of Narcotic Substances (Amendment) Ordinance, 2020, shall be deemed to have been validly taken, commenced and done under this Act".

Peshawar, the  
Dated the 30<sup>th</sup> November, 2020.

SHAH FARMAN  
Governor of the Khyber Pakhtunkhwa

MUSOOD AHMAD  
Secretary to  
Government of the Khyber Pakhtunkhwa,  
Law, Parliamentary Affairs and  
Human Rights Department.

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