IN THE HIGH COURT OF SINDH,
CIRCUIT COURT HYDERABAD

Present:
Mr. Justice Omar Sial
Mr. Justice Mohammad Abdul Rahman

Cr. Appeal No.D-43 of 2025

Cr. Jail Appeal No.D-33 of 2025

Cr. Jail Appeal No.D-34 of 2025

Appellants	:	M/s. Asif Gul Bhatti & Saddam Hussain Khoso, Advocates
State	:	Through Mr. Shahwak Rathore, Deputy Prosecutor General, Sindh.
Date of Hearing	:	27-01-2026
Date of Judgment	:	12-02-2026

J U D G M E N T

OMAR SIAL, J.: The Appellant Manan has impugned a judgment dated 07-05-2025 passed by the Learned Special Judge-I Control of Narcotic Substances Act Kotri. In terms of the said judgment the Appellant was convicted for an offence u/s 6, 9(b) of CNS Act, 1997 and sentenced to suffer R.I for three years and to pay fine in sum of Rs.2,00,000/-, in case of default, he shall suffer S.I for one year more. The benefit of section 382-B Cr.P.C was extended to him.

2. A police party led by A.S.I. Ghulam Abbas of the Khanpur Kotri police station was on patrol duty on 23.04.2024 when they stopped a person who appeared suspicious. The detained man identified himself as Muhammad Ilyas, and upon his search, 65 grams of methamphetamine were recovered from his possession. It is claimed that Ilyas told the policemen that Farhan @ Manan had given him the psychotropic substance to sell. He was arrested, and F.I.R. No. 149 of 2024 under sections 9(2)2 of the CNS Act, 1997 was registered against Ilyas and Manan.

3. Both accused pleaded not guilty and claimed they were tried.

4. At the trial, the prosecution examined **PW-1 A.S.I**. Ghulam Abbas Soomro (complainant and courier); **PW-2 P.C**. Muhammad Uris Mallah (witness to the arrest and recovery); **PW-3 WHC** Wali Muhammad (maalkhana incharge); **PW-4 S.I**. Imtiaz Ali (investigating officer).

5. In their respective section 342 Cr.P.C. statements, the accused denied all wrongdoing and stated that the case was a false one and that the methamphetamine had been foisted upon them.

6. The learned 1st Additional Sessions Judge, Kotri, at the end of the trial, on 07.05.2025, convicted the appellants and sentenced them to three years' imprisonment and a fine. It is this judgment that has been challenged herein.

7. We have heard the appellants' learned counsel and the learned Deputy Prosecutor General. Our observations and findings are as follows.

i. We will first address the case against Manan. We are at a complete loss to understand how and why Manan was convicted. The only thing that the police claimed was that when Ilyas was being arrested, he told them that Manan had given him the ice to sell. That was it. It is now well settled that, in such circumstances, a confession before the police is not admissible in evidence under Articles 38 and 39 of the Qanoon-e-Shahadat Order, 1984. Even if it was admissible pursuant to Article 40 of the Order (which, in the present case, it was not, as the confession led to no further discovery), even then, to rope in Manan on the basis of that confession was not possible without strong corroboratory evidence. Not a shred of evidence came against him at trial. It was not explained at trial how, when, from where, or by whom Manan was arrested. There is no document or a prosecution testimony that even attempted to explain it. The trial court has critically erred in this regard.

ii. The case against Ilyas is also not devoid of doubt. For starters, we find it extremely difficult to believe that a police party on its normal duty and while driving on the road, can zero in on one person and find him suspicious. Why and what made the police suspicious is always missing from

prosecution accounts, and this case is no different. Without delving deep into the prosecution's case, we find that safe custody and transmission of the psychotropic substance were not proved at trial. This is evident from the testimony of PW-3 Wali Muhammad (the maalkhana incharge). This witness conceded at trial that the time of depositing the case property in Register XIX had been manipulated; he also conceded that the photocopy of the entry produced at trial differed from the original entry; however, he claimed that the person who made the corrections in the Register. The witness conceded that entries in the Register were in different handwritings; he conceded that a whole sentence had been smudged with Whito in the entry; he conceded that a date had been added in the entry. As far as the case is concerned, the alteration made and a different copy produced at trial not only suggest malafide on the part of the police but also serve to create massive doubt that safe custody was compromised. If the keeper and custodian of the Register could not explain who had altered the entries in the Register and how a different copy of the entry was produced at trial, it is a matter of grave concern for the Sindh Police.

8. We have no qualms in concluding that the prosecution completely failed to prove its case against the two appellants. The Criminal Appeal No.D-43 of 2025 and Criminal Jail Appeal No.D-33 of 2025 are allowed, and the appellants are acquitted of the charge. They should be released forthwith, if not required in any other custody case.

9. As far as Criminal Appeal No. D-34 of 2025 is concerned; it was filed by Manan from Jail. Subsequently, Criminal Appeal No. D-43 of 2025 was filed on his behalf. Criminal Appeal No. D-34 of 2025 is therefore disposed of as having become infructuous.

JUDGE

JUDGE

Hafiz Fahad