

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Cr. Jail Appeal No.D-49 of 2024

Date of Hearing	ORDER WITH SIGNATURE OF JUDGE
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24.09.2026.

For hearing of Main Case.

Mr. Farhat Ali Bugti, advocate for the appellant.

Mr. Nazeer Ahmed Bhangwar, DPG.

Riazat Ali Sahar, J.- The instant case pertains to the Control of Narcotics Substances Act, 1997 (as amended in 2022). We have perused the record, including the impugned judgment dated 21.05.2024 passed by the learned 1st Additional Sessions Judge, Shikarpur, as well as the statement of the accused recorded under Section 342, Cr.P.C. A perusal thereof reveals that the questions put to the accused were not framed in a proper and precise manner. Instead of separately putting to the accused the material circumstances appearing against him in the prosecution evidence, substantial portions of the evidence appear to have been reproduced rather copy pasted, like as **“I am complainant cum author of the FIR in this case.”**, which shows that the learned judge did not bother to form proper questions. Such a course defeats the very object of Section 342, Cr.P.C., which requires that each material circumstance appearing in evidence against an accused be put to him clearly and specifically so as to afford him a meaningful opportunity to explain the same.

In these circumstances, the statement of the accused under Section 342, Cr.P.C. cannot be said to have been recorded in accordance with law, thereby vitiating the subsequent proceedings. Consequently, the impugned judgment dated 21.05.2024 is hereby set aside, and the case is remanded to the learned 1st Additional Sessions Judge, Shikarpur with a direction to record the statement of the accused afresh under Section 342, Cr.P.C., by putting to him separately, clearly and precisely all material circumstances appearing against him in the prosecution evidence. Thereafter, the learned trial Court shall afford due

opportunity of hearing to the parties and decide the case afresh, strictly in accordance with law, without being influenced by any observation contained in the impugned judgment or in the present order.

Since the appellant has already undergone the ordeal of trial and the matter is being remanded for fresh proceedings for reasons not attributable to him, we consider it just and proper that he should not remain incarcerated during the pendency of the proceedings after remand. Accordingly, the appellant is admitted to bail, subject to furnishing a solvent surety in the sum of Rs.100,000/- (Rupees One Hundred Thousand only) and a P.R. Bond in the like amount to the satisfaction of the Additional Registrar of this Court.

The learned 1st Additional Sessions Judge, Shikarpur, shall proceed with the matter expeditiously and conclude the proceedings in accordance with law.

We have further observed that, in a number of matters arising out of judgments delivered by the concerned Presiding Officer during his tenure as an Additional Sessions Judge, serious deficiencies have been noticed in the manner of recording evidence, appreciation of the material available on record, and preparation of judgments. In several such matters, the judgments have either been set aside or the cases remanded for retrial, fresh recording of proceedings, or rewriting of judgments in accordance with law.

In view of the recurring nature of such deficiencies, **the M.I.T-II, High Court of Sindh, is directed to collect and compile particulars of all such cases/orders in which judgments rendered by the said judicial officer have been set aside, recalled, or the matters remanded on account of material procedural or legal defects attributable to the manner in which the proceedings were conducted or the judgments were written.** The M.I.T-II shall place the compiled record, along with the relevant orders of this Court, before the Hon'ble Chief Justice for consideration and for such appropriate administrative action, if any, as may be deemed necessary in accordance with law.

Let a copy of this order be communicated forthwith to the learned M.I.T-II, Karachi and learned District & Sessions Judge, Shikarpur, as well as the learned 1st Additional Sessions Judge, Shikarpur, for information and compliance.

JUDGE

JUDGE

Qazi Tahir PA/*