

THE HIGH COURT OF SINDH KARACHI

Spl. Cr. Appeal No. 28 of 2026

[Muhammad Kashif Butt v. The State]

Appellant : Muhammad Kashif Butt
Son of Muhammad Anwar Butt
through Mr. Aqil Ahmed, advocate.

Respondent : The State through Model Customs
Collectorate, through
Mr. Naimat Ullah Soomro, Advocate.

Date of hearing : 24-08-2026

Date of decision : 24-08-2026

ORDER

Jan Ali Junejo I.- Learned counsel for the Appellant prays for suspension of sentence under section 426 Cr.P.C [MA No.11355/2026]. He further submits that the sentence awarded to the Appellant is a short one. He further submits that the appellant has been convicted on a misread of the evidence.

2. By the impugned judgment dated 15.07.2026, the Appellant has been convicted by the Special Judge (Customs, Taxation & Anti-Smuggling-II), Karachi and sentences as follows:

“(i) For offence punishable under section 2(s), 16, 17 and 139 of the Customs Act, 1969, accused above named is sentenced for Rigorous Imprisonment for Three (03) years.

(ii) for the offence punishable under section 89(i), accused above named is sentenced to undergo Rigorous Imprisonment for three (03) years and to pay a fine of amount of Rs.10,000,000/- (Rupees Ten Million only). In default of payment of fine, he shall further undergo Simple Imprisonment for six (06) months.”

Furthermore, benefit of section 382-B Cr.PC was allowed with the observation that the sentence will run concurrently except payment of fine.

3. A perusal of the impugned judgment reflects that a prima facie arguable point has arisen regarding the applicability of the relevant penal provisions of the Customs Act, 1969. According to him, the charge was framed under Sections 2(s), 16, 17 and 139 of the

Customs Act, 1969, punishable under Clauses (8) and (89) of Section 156(1) thereof. He submits that Clause (8) of Section 156(1) is attracted in cases involving the smuggling of goods into or out of Pakistan, whereas Clause (89) is applicable where a person, without lawful excuse, is found in possession of or dealing with goods already smuggled into Pakistan. He further submits that according to the prosecution case, the recovery and arrest of the Appellant were effected at the Airport; therefore, the applicability of Clause (89) of Section 156(1), and consequently the legality of the conviction and sentence awarded thereunder, requires examination.

4. The sentence awarded to the Appellant is a short one, whereas he remained on bail throughout the trial. Though counsel for the Customs opposes the application, in view of the foregoing I am inclined to allow the same.

5. Therefore, the sentence awarded to the Appellant by judgment dated 15.07.2026 in the Case No.238/2022 [New Case No.72/2024] arising from FIR No.P-888/2023/2023-JIAP (Arrival) is suspended, and the Appellant is granted bail under section 426 Cr.P.C. subject to furnishing solvent surety in the sum of Rs.10,00,000/- (Rupees One Million only) and P.R. bond in like amount to the satisfaction of the Nazir of this Court. MA No.11355/2026 is allowed in said terms.

JUDGE

M. ZEESHAN