IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:-
Mr. Justice Shamsuddin Abbasi
Mr. Justice Miran Muhammad Shah

Special Criminal Anti-Terrorism Appeal No.36 of 2025

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Appellant	Muhammad Saleem son of Muhammad through Mr. Mumtaz Ali Khan Deshmukh, Advocate.
Respondent	The State through Mr. Muhammad Iqbal Awan, Additional Prosecutor General (Sindh).
Date of hearing	**20.10.2026**
Date of Judgment	**28.10.2026**

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JUDGMENT

Shamsuddin Abbasi, J.- Muhammad Saleem son of Muhammad. appellant, has called into question the validity of the judgment dated 25.09.2025, penned down by the learned Anti-Terrorism Court No.XV. Karachi [Judicial Complex ATCs, Central Prison] in Special Case No.01 of 2025 (Old Special Case No.43 of 2025) arising out of FIR No. 160 of 2024 registered at P.S. SIU/CIA, Karachi, for offences under Sections 4 & 5 of Explosive Substance Act, 1908 read with Section 7 of Anti-Terrorism Act, 1997, Special Case No.01-A of 2025 (Old Special Case No.43-A of 2025) arising out of FIR No.161 of 2024 registered at P.S. SIU/CIA, Karachi, for offence under Section 23(1(a) of Sindh Arms Act, 2013 and Special Case No.01-B of 2025 (Old Special Case No.43-B of 2025) arising out of FIR No.162 of 2024 registered at P.S. SIU/CIA, Karachi, for offence under Sections 121-A and 122, PPC read with Section 7 of Anti-Terrorism Act, 1997, through which he was convicted and sentenced as under:-

> *"(i) To suffer imprisonment for life and fine of Rs.50,000/- under section 121-A of Pakistan Penal Code, 1860. In case of default in payment of fine, the accused shall suffer simple imprisonment for three (03) months more.*
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> *(ii) To suffer imprisonment for life and fine of Rs.50,000/- under Section 122 of Pakistan Penal Code, 1860. In case of default in payment of fine, the accused shall suffer simple imprisonment for three (03) months more.*

(iii) To suffer imprisonment for life under section 4 of Explosive Substances Act, 1908.

(iv) To suffer rigorous imprisonment for ten (10) years under section 5 of Explosive Substance Act, 1908.

(v) To suffer rigorous imprisonment for fourteen (14) years under section 7(1(ff) of Anti-Terrorism Act, 1997.

(vi) To suffer rigorous imprisonment for ten (10) years and fine of Rs.50,000/- under section 23(1)(a) of the Sindh Arms Act, 2013. In case of default in payment of fine, the accused shall suffer simple imprisonment for three (03) months more.

48. All the sentences shall run concurrently. The accused is also entitled for the benefit of section 382-B Cr.P.C.".

2. Briefly stated, the prosecution case as set out in the FIR is that on 07.10.2024 complainant SIP Syed Akbar Ali Shah, accompanied by subordinate police personnel, armed with official weapons, left P.S. SIU, Karachi, in official mobile No. SPC-952 vide departure entry No. 71 for the search of proclaimed offenders and absconders and the prevention of crime. Upon reaching the jurisdiction of P.S. Mauripur, an information was received through spy that a person, affiliated with Indian intelligence agency "RAW", who has unlawfully obtained identification documents of the Islamic Republic of Pakistan, is present at Machhli Chowrangi, near Sahil Shinwari Hotel, Mauripur, Karachi, carrying a hand grenade and other weapons on a motorcycle with intention to commit an act of terrorism. Acting upon such information, the complainant, accompanied by the police party and the informer, proceeded to the identified location. It was about 7:15 pm they intercepted a person riding motorcycle bearing registration No.KGI-0994 and carrying a multicoloured school bag on his right shoulder, who upon inquiry disclosed his name as Muhammad Saleem son of Muhammad. It is alleged that owing to the non-cooperation of private persons, the complainant conducted search of the bag in presence of official witnesses ASI Muhammad Younus and PC Wali Khan, which led to recovery of one military coloured hand grenade, one black coloured Awan bomb launcher along with an Awan bomb and one black coloured 9mm pistol like MP5 bearing No. 37319 with the words "Najam Security Pistol" inscribed on its right side and "NGI" on its left side, loaded with magazine containing 10 live rounds. It is further alleged that sum of Rs.7,000/- and two Pakistani passports in his name were recovered during his personal search. Upon interrogation, he disclosed his association with "RAW" and stated that he along with his

accomplice is involved in a criminal conspiracy against the State of Pakistan, and unable to produce a licence for the recovered firearm and ammunition or registration documents for the motorcycle. The complainant arrested the accused and sealed the recovered arms and ammunition at the spot and kept the explosive material in safe custody pending examination and defusing by the BDU and also seized the motorcycle under Section 550. Cr.P.C. Upon return to P.S. the complainant registered three separate cases on behalf of the State vide FIR No.160 of 2024 under the Explosive Substances Act, 1908 read with Anti-Terrorism Act, 1997, FIR No. 161 of 2024 under Sindh Arms Act, 2013 and FIR No. 162 of 2024 under Sections 121-A and 122, PPC read with the Anti-Terrorism Act, 1997.

3. Pursuant to the registration of the FIRs, the investigations were followed and in due course three separate challans were submitted before the Court of competent jurisdiction, whereby the appellant was sent up to face the trial.

4. The learned trial Court assumed jurisdiction and proceeded with the joint trial in terms of Section 16 of the Anti-Terrorism Act, 1997. Upon being charged, the appellant pleaded not guilty and claimed trial. At trial, the prosecution has examined as many as eight (08) witnesses namely, ASI Hameed Ullah as PW.1 at Ex.5, Complainant SIP Syed Akbar Ali Shah appeared as PW.2 at Ex. 7, ASI Syed Zia Abbas (Malkhana Incharge) as PW.3 at Ex. 9, ASI Muhammad Younus as PW.4 at Ex. 10, Farhan as PW.6 at Ex. 12, Inspector Rao Akhtar Ali (investigating officer) as PW.7 at Ex. 14 and Muhammad Saeed as PW.8 at Ex. 15. Thereafter, the prosecution closed its case vide statement at Ex. 16. In his statement recorded under Section 342, Cr.P.C. the appellant has denied the allegations imputed upon him by the prosecution, professed his innocence and pleaded false implication and stated that he is a social worker and police arrested him from his house on 04.10.2024 and took his four passports as well as of his wife and also denied the recovery and his association with "RAW". He, however, neither opted to appear on oath under Section 340(2), Cr.P.C. nor produced any evidence in his defence.

5. Upon culmination of the trial and reappraisal of the evidence, the learned trial Court, through the impugned judgment dated 25.09.2025, held the appellant guilty of the offences charged with and thus convicted and

sentenced him as set out in para-1 (supra), which necessitated the filing of the listed appeal.

6. It is contended on behalf of the appellant that he is innocent and has been falsely implicated in this case with malafide intention and ulterior motives as otherwise he has nothing to do with the alleged offences and has been made victim of the circumstances. It is next submitted that the prosecution has failed to establish the appellant's guilt beyond reasonable doubt. It is also submitted that police took appellant from his house on 04.10.2024 and kept for three days in illegal confinement and thereafter falsely booked as he declined to accept their illegal demands. It is argued that the alleged recovery of explosive material and an unlicensed pistol is doubtful and has not been established through independent corroboration. According to learned counsel, the prosecution witnesses are police officials whose testimony requires careful scrutiny in the circumstances of the case particularly in view of the absence of private mashirs. The learned counsel has contended that the alleged association of the appellant with the Indian intelligence agency "RAW" is based on conjecture and unsubstantiated allegations rather than reliable and legally admissible evidence. He submitted that the appellant's visits to India as reflected in his travel history cannot by themselves establish criminal conspiracy or an intention to wage war against the State of Pakistan. He also questioned the evidentiary value of the statements attributed to the appellant during interrogation and maintained that no independent material has been produced to establish the ingredients of the offences punishable under Sections 121-A and 122, PPC. He also submitted that the prosecution has failed to prove the appellant's conscious possession of the alleged explosive material and firearm as well as his alleged involvement in any terrorist activity through reliable evidence connecting him with the offences charged. Concluding his submissions, the learned counsel has contended that the learned trial Court has failed to appreciate the material contradictions and deficiencies in the prosecution evidence in their proper perspective and has recorded the convictions and sentences without sufficient legal justification, which are liable to be reversed and prayed for acquittal of the appellant.

7. Conversely, the learned Additional Prosecutor General [Sindh] has supported the impugned judgment and argued that the prosecution has established the appellant's guilt through consistent and confidence inspiring

evidence. It is next submitted that the recovery of explosive material and unlicensed pistol, duly supported by the prosecution witnesses and the relevant documentary evidence, corroborates the prosecution case. It is also submitted that the appellant's travel history and the other circumstances on record lend support to the prosecution's case regarding his alleged involvement in activities prejudicial to the security of the State. He maintained that the learned trial Court has properly appreciated the evidence and rightly convicted and sentenced the appellant. Accordingly, he prayed for dismissal of the appeal.

8. We have heard learned counsel for the appellant and the learned Additional Prosecutor General [Sindh] and have reappraised the evidence available on record in the light of their respective submissions.

9. Insofar as the recovery of explosive material and the firearm is concerned, the prosecution has examined complainant SIP Syed Akbar Ali Shah as PW.2 and the accompanying police officials ASI Muhammad Younus (PW.4) and PC Wali Khan (PW.5), who have supported the prosecution version regarding the apprehension of the appellant and the recovery of the case property. Their evidence finds further support from the memo of arrest and recovery, the relevant police record and the testimony of PW.3 ASI Syed Zia Abbas (Malkhana Incharge), who deposed regarding the receipt and deposit of the recovered articles in the Malkhana under an entry in Register No.XIX. Furthermore, PW.1 ASI Hameed Ullah associated with the BDU also testified regarding his examination of the explosive material and the issuance of a clearance certificate. Mere fact that the recovery witnesses are police officials does not by itself render their testimony doubtful or legally unacceptable. It is a settled principle of law that the testimony of a police official stands on the same evidentiary footing as that of any other witness and must be evaluated on its intrinsic worth rather than being viewed with suspicion on account of the witness's official status. In this regard, reliance may well be made upon the case of *Zain Ali v The State* (2023 SCMR 1669) wherein the Hon’ble Supreme Court has reaffirmed that the evidence of police officials does not require independent corroboration as a matter of law and cannot be discarded merely because no private witness was associated with the recovery proceedings. The reluctance of members of the general public to participate as witnesses in like cases has also received judicial recognition. Consequently, neither the official status of the

recovery witnesses nor the absence of private mashirs constitutes a lawful ground for rejecting otherwise credible prosecution evidence. The governing test is whether the testimony when examined as a whole and in conjunction with the surrounding circumstances and documentary record, inspires confidence and remains unimpaired on material particulars. Minor discrepancies, marginal variations or inconsistencies concerning peripheral matters which do not undermine the substratum of the prosecution case are insufficient to discredit the evidence in its entirety. Conversely, any material contradiction, inherent improbability, or substantial infirmity affecting the credibility of a witness must be duly considered in determining the evidentiary worth of his deposition. The law, therefore, neither attaches diminished value to official testimony merely because of the witness's employment nor accords it automatic acceptance without scrutiny. In the case in hand, no material infirmity has been brought to our notice which would justify discarding the testimony of the recovery witnesses solely on account of their official status or the non-association of private persons. Their evidence, supported by the relevant recovery and Malkhana record must accordingly be assessed on its own merits and in the context of the entire prosecution case. Where official witnesses have given consistent, confidence inspiring evidence on material particulars and their testimony withstands scrutiny without any substantial contradiction or infirmity, the same is legally capable of sustaining a finding of guilt without independent corroboration. The evidence in the present case must, therefore, be appreciated in accordance with these settled principles rather than on the basis of any presumption that police officials are inherently less trustworthy than private witnesses.

10. The appellant's assertion that he was taken away from his house on 04.10.2024 whereas the prosecution maintains that he was apprehended on 07.10.2024 has also been examined. In this regard, PW.6 Farhan has deposed that he had received information from his wife concerning the alleged removal of the appellant from the house, however, he did not claim to have personally witnessed the appellant's arrest. His testimony, therefore, establishes at best the information conveyed to him by his wife and does not constitute direct evidence of the alleged prior arrest. In the absence of further reliable material substantiating the assertion of illegal detention or false implication, his statement, by itself, is insufficient to displace the direct account of the police witnesses concerning the appellant's apprehension and the recovery of the case property. Likewise, the appellant's denial of the

recovery has been considered in the light of the entire evidence, but a mere denial cannot prevail over otherwise reliable prosecution evidence supported by the relevant recovery and documentary record. Upon an overall appraisal of the evidence, we find no misreading or non-reading of any material evidence nor any legal infirmity in the findings recorded by the learned trial Court concerning the recovery of explosive material and firearm. The prosecution evidence, when considered cumulatively, does not furnish any justifiable ground for disturbing the conclusions reached by the learned trial Court. Consequently, the appellant's challenge to his convictions under Sections 4 and 5 of the Explosive Substances Act, 1908, and Section 23(1)(a) of the Sindh Arms Act, 2013, fails. His convictions under the aforesaid provisions are therefore maintained and the appeal to that extent is dismissed. However, as regards the quantum of sentence under Section 4 of the Explosive Substances Act, 1908, a separate consideration is warranted. The said provision prescribes imprisonment for life or a shorter term of imprisonment which shall not be less than seven years. The statutory language thus expressly empowers the Court to award a fixed term of imprisonment in lieu of life imprisonment subject to the prescribed minimum. The availability of this alternative, however, does not mean that a shorter sentence must invariably be awarded rather the discretion must be exercised judicially having regard to the nature and gravity of the offence, the circumstances in which it was committed, the appellant's role, the nature and potential of the explosive material involved, the extent of the danger posed to human life and property and any other relevant aggravating or mitigating circumstances established on the record. Life imprisonment represents the more severe punishment expressly contemplated by the provision whereas a shorter term may be justified where upon an objective assessment of the circumstances of the particular case the imposition of life imprisonment is not warranted and the legitimate objectives of punishment can adequately be achieved through a substantial fixed term of imprisonment. Such discretion must neither be exercised arbitrarily nor on the basis of sympathy alone, it must rest upon relevant considerations demonstrating why a lesser term, while remaining proportionate to the seriousness of the offence, would adequately meet the ends of justice. At the same time, the statutory minimum of seven years constitutes an express legislative safeguard and cannot be disregarded. In the case in hand, having considered the nature of the charge, the evidence brought on record, the circumstances attending the recovery and the punishment prescribed by the legislature, we are of the view that the

ends of justice would be adequately served by reducing the sentence of life imprisonment awarded to the appellant under Section 4 of the Explosive Substances Act, 1908, to ten (10) years' rigorous imprisonment**.** This reduction does not detract from the appellant's criminal liability or dilute the seriousness of the offence rather it represents the exercise of the sentencing discretion expressly conferred by the statute. The sentence is accordingly modified to the extent stated above while the conviction under Section 4 of the Act remains intact. For ready reference, Section 4 of the Explosive Substances Act, 1908, provides, in its relevant part, as follows:-

> ***"4. Punishment for attempt to cause explosion, or for making or keeping explosive with intent to endanger life or property.-*** *Any person who unlawfully and maliciously……shall, whether any explosion does or does not take place and whether any injury to person or property has been actually caused or not, be punished with imprisonment for life or any shorter term which shall not be less than seven years."*

11. A different conclusion, however, follows in respect of the convictions recorded under Sections 121-A and 122, PPC, and Section 7 of the Anti-Terrorism Act, 1997. Each of these provisions has distinct statutory ingredients which the prosecution was required to establish through cogent, credible and legally admissible evidence. Such ingredients cannot be presumed merely from the recovery of explosive material and a firearm. The prosecution alleged that the appellant was associated with the Indian intelligence agency "RAW" and was involved in a conspiracy against the State of Pakistan, however, upon a careful appraisal of the evidence, we find no reliable material substantiating this allegation. The appellant's travel history, reflecting visits to India in 2012, 2013 and 2014, does not, by itself, establish his association with the said agency or his involvement in any conspiracy against the State. In this regard, PW.6 Farhan and PW.8 Muhammad Saeed referred to information subsequently received by them concerning the appellant's alleged association with "RAW". Neither witness disclosed any personal knowledge of intelligence activities, communications, meetings or arrangements connecting the appellant with the said agency nor did the prosecution produce any independent documentary, electronic or other reliable evidence establishing that he acted at its direction or in coordination with it. The investigating officer, moreover, failed to collect any tangible evidence establishing the alleged nexus or to obtain verification from the relevant security agencies in support of this serious accusation. Although

the absence of such verification is not, by itself, determinative of guilt or innocence, the failure to pursue this material aspect of the investigation assumes significance when the allegation remains unsupported by any other reliable evidence. Mere travel to a foreign country on valid travel documents even when considered alongside the recovery of explosive material and a firearm cannot establish involvement in anti-state activities or an unlawful conspiracy without evidence connecting those circumstances with the criminal design alleged by the prosecution. The gravity of an accusation cannot substitute for proof, and suspicion, however strong, cannot take the place of legally admissible evidence. The prosecution was required to establish the essential ingredients of each offence independently, together with the appellant's participation therein. As the alleged association with "RAW" remains unsubstantiated, it cannot lawfully be relied upon to sustain the impugned convictions. We shall, therefore, examine whether the evidence independently satisfies the statutory requirements of Sections 121-A and 122, PPC, and Section 7 of the Anti-Terrorism Act, 1997.

12. The conviction recorded under Section 121-A, PPC is unsustainable for want of proof of the essential ingredients of criminal conspiracy. The prosecution was required to establish an agreement between the appellant and one or more persons to commit an offence punishable under Section 121, PPC, or to accomplish an unlawful object falling within the scope of Section 121-A, PPC. Although the existence of a conspiracy may be established through circumstantial evidence and need not invariably be proved by direct evidence of an express agreement, the circumstances relied upon must be firmly established and, when considered cumulatively, must lead to a reasonable and legally sustainable inference of a common unlawful design. In the case in hand, no reliable evidence establishes any meeting of minds between the appellant and an alleged co-conspirator nor has the prosecution identified any communication, agreement, concerted action or other circumstance demonstrating his participation in a conspiracy to wage war against Pakistan or to accomplish any other object contemplated by Section 121-A, PPC. The recovery of explosive material and a firearm even if accepted as proved does not without a reliable connecting link establish the existence of an agreement to wage war against the State. The prosecution cannot substitute proof of the requisite agreement with the mere possession of potentially dangerous articles or an unsubstantiated allegation of association with a foreign intelligence agency. In the absence of evidence

establishing the alleged conspiracy and the appellant's participation therein beyond reasonable doubt, the conviction under Section 121-A, PPC, cannot be sustained.

13. The conviction under Section 122, PPC is likewise not supported by sufficient evidence. To attract this provision, the prosecution was required to establish that the appellant collected men, arms or ammunition or otherwise prepared to wage war against Pakistan with the requisite intention of waging such war. Mere recovery of a firearm and explosive material does not, by itself, establish the specific intention contemplated by the provision. The prosecution must demonstrate through the evidence and surrounding circumstances that the collection or preparation was undertaken for the purpose of waging war against the State. In the case in hand, no evidence establishes that the appellant recruited or assembled persons for such a purpose prepared an organized armed operation against the State or collected the recovered articles pursuant to a plan to wage war against Pakistan nor has the prosecution established any intended target, operational arrangement, coordination with an organized group or other reliable circumstance demonstrating the requisite intention. Although the nature of the recovered articles may constitute a relevant circumstance, their recovery alone cannot establish the specific criminal purpose required by Section 122, PPC. In the absence of a reliable evidentiary link between the recovered articles and any preparation to wage war against Pakistan, the essential ingredients of the offence remain unproved. Consequently, the conviction recorded under Section 122, PPC, is also unsustainable.

14. The question whether the appellant's conduct attracts Section 7 of the Anti-Terrorism Act, 1997 must also be considered independently. In this regard the principles enunciated by the Hon'ble Supreme Court in the case of Ghulam Hussain v The State (PLD 2020 SC 61) provide authoritative guidance. The Hon'ble Court has explained that the applicability of the anti-terrorism law depends upon the nature, object and design of the act in question rather than merely upon its consequences or the fear and insecurity it may generate. Every serious or heinous offence does not merely by reason of its gravity become an act of terrorism. The distinction lies in the purpose and design underlying the conduct, which must be assessed in the light of the statutory definition of a terrorist act. Applying that principle to the present case, we find that the prosecution has not produced evidence establishing

that the appellant possessed the recovered articles pursuant to a design to strike terror in the public, intimidate or overawe the Government or achieve any other object falling within the applicable definition of a terrorist act. There is no evidence of a planned terrorist attack, an identified target, an intended act of violence against the public or a State institution or any other conduct demonstrating the requisite design contemplated by Section 6 of the Anti-Terrorism Act, 1997. The allegation that the appellant was associated with "RAW" cannot cure this deficiency because that allegation itself remains unsubstantiated. Similarly, mere possession of explosive material and firearm although capable of constituting separate offences under the applicable laws does not automatically establish the distinct offence of terrorism. The prosecution was required to prove the statutory ingredients of the latter offence independently, which it has failed to do. The principle laid down in Ghulam Hussain's case (supra) does not mean that possession of explosive material or firearms can never form part of a terrorist act rather the question is whether the evidence establishes the requisite purpose or design in the particular circumstances of the case. Here, no such purpose or design has been proved. We, therefore, hold that the conviction recorded under Section 7 of the Anti-Terrorism Act, 1997 cannot be sustained.

15. For the foregoing reasons, we are of the view that the prosecution has established the appellant’s guilt in respect of the offences relating to the recovery of explosive material and the unlicensed firearm, but has failed to prove beyond reasonable doubt the distinct statutory ingredients of the offences punishable under Sections 121-A and 122, PPC, and Section 7 of the Anti-Terrorism Act, 1997. The latter convictions cannot be sustained merely because the recovery of the articles has been accepted as proved. Each charge must stand or fall on the evidence establishing its own essential ingredients, and proof of one offence cannot, by itself, supply the missing elements of another. Accordingly, the appeal is dismissed to the extent of the convictions recorded under Sections 4 and 5 of the Explosive Substances Act, 1908, and Section 23(1)(a) of the Sindh Arms Act, 2013, however, sentence of life imprisonment awarded under Section 4 of the Explosive Substances Act, 1908, is modified and reduced to ten (10) years’ rigorous imprisonment for the reasons recorded in para-10 (supra) whereas the convictions and sentences awarded under Sections 121-A and 122, PPC, and Section 7 of the Anti-Terrorism Act, 1997 are set aside and the appellant is acquitted of those charges by extending him the benefit of doubt. The

sentences maintained under the Explosive Substances Act, 1908, and the Sindh Arms Act, 2013 shall run concurrently in accordance with the order of the learned trial Court. The benefit of Section 382-B, Cr.P.C. as extended by the learned trial Court shall remain available to the appellant.

16. This Special Criminal Anti-Terrorism Appeal No.36 of 2025 stands disposed of in the foregoing terms.

JUDGE

JUDGE

Naeem/PA