

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Omar Sial

Mr. Justice Shamsuddin Abbasi

Criminal Appeal No.597 of 2025

Appellant : *Sakhi Dad*, through Mr. Qadir Buksh
Rajper, Advocate

The State : Through Mr. Ali Anwer Kandhro,
Additional Prosecutor General Sindh

Date of hearing: 17.08.2026

Date of Judgment: 19.08.2026

JUDGMENT

Omar Sial, J.: Sakhi Dad was arrested on 24.08.2024 by S.I. Muhammad Arshad of the Mochko police station while in possession of 1020 grams of methamphetamine (Ice). F.I.R. No. 292 of 2024 was registered under sections 6 and 9-2(6) of the Control of Narcotic Substances Act, 1997.

2. Sakhi Dad pleaded not guilty and claimed trial. At the trial, the prosecution examined **PW-1 S.I. Muhammad Arshad** (complainant); **PW-2 P.C. Anees-ur-Rehman** (witness to the arrest and recovery); **PW-3 A.S.I. Muhammad Mehmood-ul-Hassan Siddiqui** (*maalkhana* in charge) and **PW-4 Inspector Syed Shahid Hussain** (investigating officer). In his section 342 Cr.P.C. statement, the Sakhi Dad denied wrongdoing, professed innocence, and stated that the narcotics had been foisted upon him. At the end of the trial, the learned 2nd Additional Sessions Judge, Karachi West, on 29.08.2025 convicted Sakhi Dad and sentenced him to life imprisonment and a fine of Rs. 800,000. If he did not pay the fine, he would have to remain in prison for a further year.

3. We have listened to the appellant's learned counsel and the learned Additional Prosecutor General. Our observations and findings are as follows.

4. An error crept into the trial court judgment as far as the safe custody and transmission of the narcotics was concerned. The learned trial court recorded that safe custody was established as the record showed that the property was seized on 24.08.2024 and deposited in the laboratory on 26.08.2024. And that 25.08.2024 was a holiday. A reappraisal of the evidence reveals that PW-3 Mohammad Mehmood-ul-Hassan (the maalkhana in-charge) testified that on 24.08.2024, PW-1 S.I. Mohammad Arshad (complainant) deposited the case property with him in a sealed condition. Neither the original Register XIX nor a Road Certificate was produced at the trial. This is significant because, while PW-3 Mohammad Mehmood-ul-Hassan was testifying, he sought an adjournment to produce the original Register XIX; however, when he was recalled to testify, he did not produce the original Register and instead produced an extract of the relevant page. He admitted at the trial that even the extract did not show the necessary signatures of the person who deposited the case property or the one who took it out. The extract of Register XIX produced at trial is also dubious, as it oddly records only one entry (pertaining to the present case) on the entire page. This ambiguity could have been clarified if the original Register was seen. Be that as it may, even the extract presented at the trial shows that the case property was deposited in the maalkhana on 24.08.2024 and handed to the investigating officer on 25.08.2024. PW-4 Inspector Syed Shahid Hussain (investigating officer) also admitted that he had taken the narcotics from the maalkhana in-charge on 25.08.2024. The investigating officer further admitted that he did not deposit the property with the chemical analyst on that day but instead deposited it the next day, i.e., 26.08.2024. Apart from the fact that nothing was put on record to show that 25.08.2024 was a holiday, the fact remains that the

investigating officer took out the property on a holiday, and even if he realized after taking the property out that it was a holiday, he should have redeposited it in the maalkhana under appropriate entries in the Register XIX. This was admittedly not done. Further, contrary to what the investigating officer testified, and what the learned trial court relied upon to convict, the chemical analyst's report shows that the case property was deposited in the laboratory on 27.08.2024. The narcotics taken out by the investigating officer on 25.08.2024 remained with him for two days without any reason given or evidence produced at the trial to show its safe custody. The chain of safe custody and safe transmission was broken. It is well settled now that a conviction cannot be sustained if the safe custody and transmission are broken. Reference may be made to **Sarfaraz Ahmed vs The State (2024 SCMR 1571)**, **Asif Ali vs. The State (2024 SCMR 1408)**, **Said Wazir vs. The State (2023 SCMR 1144)**, **Javed Iqbal vs. The State (2023 SCMR 139)**.

5. Given the above, the appeal is allowed and the appellant acquitted of the charge. He should be released if not required in any other custody case.

JUDGE

JUDGE