

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Spl. Cr. Jail Appeal No. D-12 of 2024

Before:

Mr. Justice Amjad Ali Bohio, J.

Mr. Justice Khalid Hussain Shahani, J.

Appellant : Naeem s/o Ali Abbas, Junejo
Through Mr. Rukhsar Ahmed Junejo, Advocate

The State : Through Mr. Zulfiqar Ali Jatoi, Addl. P.G

Date of hearing : 30.09.2025
Date of order : 08.10.2025

J U D G M E N T

KHALID HUSSAIN SHAHANI, J.— This criminal appeal under Section 410 Cr.P.C. is directed against the judgment dated 13.01.2024 passed by the learned Additional Sessions Judge-I/Special Judge for CNS, Khairpur, in Special Case No.36 of 2023 arising out of Crime No.152 of 2022, for offence under Section 9(c) of the Control of Narcotic Substances Act, 1997, registered at P.S. Ranipur, Khairpur.

2. Facts of the Case are that on 21st November, 2022 at 1400 hours, SIP/SHO Rahmatullah Solangi departed from Police Station Ranipur with his subordinate staff PC Ghulam Shabir Bhanbhro and PC Fayaz Hussain Ansari for routine patrolling in government vehicle SPC-883, duly recorded in *Roznamcha* Entry No.14. At about 1430 hours, while patrolling the link road from Ranipur to Gambat near fishponds at Deh Daraza Sharif, Taluka Sobhoderi, District Khairpur, they observed a person carrying a white plastic shopper emerging from the western side. Upon sighting the police party, the suspect became confused and attempted to flee. After a chase of 56 paces, he was apprehended and identified as Naeem son of Ali Abbas Junejo. Due to non-availability of private mashirs, the two police constables were associated as official witnesses. On searching the plastic shopper, six pieces of a

brownish-green substance were recovered, which weighed 1600 grams on a computerized scale. The accused disclosed his identity and admitted to being both an addict and seller of *charas* for livelihood. A Memo of Arrest and Recovery was prepared at the spot, and the contraband was sealed in the presence of mashirs. The police party returned to the station at 1540 hours, where FIR No.152/2022, for offence under Section 9(c) CNS Act was registered, and the accused, case property, and relevant documents were handed over to Inspector Abdul Ghafoor for investigation.

3. Genesis of trial reveals that the investigation proceeded with methodical compliance. Inspector Abdul Ghafoor, as investigating officer, visited the place of incident at 1700 hours with the same mashirs and prepared a memo of place of incident. The sealed case property was deposited in the police *malkhana* under proper entry in Register No.19. On 23rd November, 2022, the sealed parcel was dispatched to the Chemical Examiner, Rohri, under Road Certificate No.11336. The Chemical Examiner's report dated 26th January 2023 confirmed the substance as *charas* through Fast Blue B Salt Test (positive) and TLC Test Protocol System A (positive), in accordance with UNODC guidelines of 2009. Following due process, copies of case documents were supplied to the accused, receipt obtained at Exhibit 1.

4. A formal charge for offence under Section 9(c) CNS Act was framed at Exhibit 2, to which the accused pleaded not guilty and claimed trial, recorded at Exhibit 2/A. To substantiate its case, prosecution examined four material witnesses to establish its case: PW-1 SIP/SHO Rahmatullah Solangi, the complainant, testified regarding the departure for patrol, sighting and apprehension of the accused, recovery of six pieces of *charas* weighing 1600 grams, preparation of recovery memo, return to station, registration of

FIR, and handover to the investigating officer. He produced Roznamcha Entry No. 14 (departure) at Exhibit 3/A, Memo of Arrest and Recovery at Exhibit 3B, FIR No. 152/2022 at Exhibit 3/D, and *Roznamcha* Entries No. 17 and 18 (arrival and handover) at Exhibits 3/C and 3/E respectively. His testimony remained consistent throughout examination-in-chief and withstood rigorous cross-examination without material contradiction on core facts. PW-2 Inspector Abdul Ghafoor Sargani, the investigating officer, testified to receiving custody of the accused and case property, visiting the place of incident, preparing the site memo, ensuring safe custody in *malkhana*, dispatching the sealed parcel for chemical analysis, and receiving the positive report. He produced *Roznamcha* Entries No.19 and 21 (departure and arrival for site inspection) at Exhibits 4/A and 4/C, memo of place of incident at Exhibit 4/B, *Roznamcha* Entries No.5 and 10 (dispatch and arrival from Chemical Laboratory) at Exhibits 4/D and 4/F, receiving letter at Exhibit 4/E, Road Certificate at Exhibit 4/G, and Chemical Examiner's report at Exhibit 4/H. His evidence established proper investigation procedures and maintained chain of custody. PW-3 ASI Abdul Sattar, the WHC/Malkhana Incharge, testified to receiving the sealed case property in safe custody and making proper entry in Register No.19 at Entry No.59, produced at Exhibit 5/A. He confirmed the integrity of seals and proper handover for chemical analysis. His testimony corroborated the safe custody and transmission aspects of the case. PW-4 HC Ghulam Shabir, the recovery mashir, provided eyewitness testimony supporting the entire sequence of events from patrol departure to recovery, sealing, and preparation of memos. He identified the accused and case property in court, confirming the continuity of evidence. His testimony aligned completely with the complainant's version on all material particulars and remained unshaken during cross-examination. The

prosecution then closed its side through a formal statement at Exhibit 7, having established the recovery, identity of contraband, and proper chain of custody through consistent and corroborative evidence. The accused's statement under Section 342 Cr.P.C. was recorded at Exhibit 8, wherein he denied all allegations, disowned the case property, claimed the chemical report was "managed," and alleged false implication. He did not opt to examine himself on oath under Section 340(2) Cr.P.C. but examined one defense witness. DW-1 Mst. Shahar Bano, the maternal grandmother of the accused, testified at Exhibit 9 that police raided her house two days prior to the FIR, forcibly took away the accused, demanded Rs.100,000 as bribe for his release, and falsely implicated him due to a property dispute with his uncle Abdul Razzaque Junejo. However, during cross-examination, she admitted to making no complaint before any superior police officer, Anti-Corruption forum, or court of law, and produced no documentary evidence to support her allegations. The defense then closed its side at Exhibit No.10. After hearing both sides and appraising the evidence, the learned trial court delivered judgment on 13th January, 2024 at Exhibit 11, finding the prosecution case proved beyond reasonable doubt. The court noted that the huge quantity of 1600 grams could not be easily foisted by police spending from their own pocket, that the witnesses successfully passed cross-examination without establishing enmity or mala fide, and that the defense plea appeared to be an afterthought without corroboration. The accused was convicted under Section 9(c) CNS Act and sentenced to nine years rigorous imprisonment with a fine of Rs.80,000, with benefit of Section 382-B Cr.P.C. for period already undergone.

5. The learned advocate for the appellant contended that the entire case rested on police witnesses without association of private mashirs,

violating the spirit of Section 103 Cr.P.C. He argued that there were contradictions in witness testimonies rendering the prosecution case doubtful, that the chain of custody was defective, and that the chemical report was inconsequential when recovery itself was fabricated. He claimed the accused was lifted from his grandmother's house two days prior with a bribe demand and was falsely booked due to property disputes. He prayed for acquittal in the interest of justice.

6. The learned DPG for the State argued that Section 25 of the CNS Act excludes Section 103 Cr.P.C. in narcotics cases, making police officials competent witnesses. He submitted that the recovery of 1600 grams was substantial and could not be easily fabricated, that immediate FIR registration, proper sealing, safe custody, prompt dispatch, and positive chemical report completed an unbroken chain of evidence. He contended that prosecution witnesses were consistent on material particulars, minor discrepancies were immaterial, and the defense plea was an uncorroborated afterthought. He relied on binding precedents establishing that police officials are as good witnesses as any other when their testimony is confidence-inspiring, relying upon cases of *Zaffar v. The State* (2008 SCMR 1254) and *Shabbir Hussain v. The State* (2021 SCMR 198).

7. After exhaustive examination of the entire record, this court undertakes a comprehensive analysis of the evidence and legal contentions to determine whether the conviction suffers from any misreading or non-reading of material evidence warranting interference. The prosecution case presents a coherent and internally consistent narrative from commencement to conclusion. The departure for patrol at 1400 hours under proper *roznamcha* entry establishes official sanction for the police activity. The sighting of the accused at 1430 hours near fishponds carrying a suspicious

package, his flight upon seeing police, apprehension after 56 paces, and immediate recovery of six pieces totaling 1600 grams forms an unbroken sequence corroborated by multiple witnesses. The accused's admission to both addiction and selling *charas* for livelihood provides insight into his commercial involvement beyond personal use. The preparation of recovery memo at the spot with proper documentation, sealing of contraband, and return to station within the same hour demonstrates procedural compliance and contemporaneity. The immediate registration of FIR at 1540 hours without delay reinforces the genuineness of proceedings. The handover to investigating officer with proper *roznamcha* entries maintains official accountability throughout. The investigating officer's visit to the scene at 1700 hours with the same mashirs, preparation of site memo, and subsequent safe custody in *malkhana* under proper register entry establishes continuity of evidence. The dispatch to Chemical Examiner on 23rd November, 2022 under Road Certificate and receipt of positive report on 26 January 2023 completes the scientific corroboration with seals found intact and satisfactory.

8. Regarding the credibility of official witnesses, Section 25 of the CNS Act specifically excludes the application of Section 103 Cr.P.C. in narcotics cases, recognizing the practical difficulty in securing private witnesses due to public reluctance to associate with drug-related proceedings. The Supreme Court in numerous precedents has held that police officials are competent witnesses whose testimony can sustain conviction when found trustworthy and confidence-inspiring. In *Roshan v. The State* 2018 P.Cr.L.J Note 26 (Sindh), and drawing support from cases like *Muhammad Arif @ Mama Vs. The State* (2002 MLD 1933) the non-citing of public witnesses is not fatal to the prosecution's case, especially when private persons refuse to

act as witnesses or no mala fide is shown against official witnesses. The evidence of police officials, when credible, is sufficient for conviction. In the present case, all prosecution witnesses underwent detailed cross-examination without revealing any prior enmity, personal interest, or motive to falsely implicate the accused. The minor variations in peripheral details such as exact distance of chase or incidental descriptions do not affect the core facts of recovery, which remain consistent across all witnesses. The substantial quantity of 1600 grams, far exceeding personal use thresholds, indicates commercial involvement and negates the possibility of fabrication by police officers investing substantial amounts from personal resources. The chemical analysis fully complies with the protocols established in the *Khair-ul-Bashar* case, providing both presumptive (Fast Blue B Salt Test) and confirmatory (TLC Test) results in accordance with UNODC guidelines. The report specifically identifies the tests performed, their individual results, and the protocols applied, meeting all legal requirements for scientific evidence in narcotics prosecutions. The defense plea of pre-FIR illegal custody and bribe demand remains wholly uncorroborated. The defense witness admitted to making no complaint before any competent authority despite the alleged serious violations, producing no documentary evidence, diary entry, medical certificate, or independent corroboration. The absence of contemporaneous complaint or any effort to approach supervisory officials, courts, or anti-corruption forums severely undermines the credibility of these belated allegations. The trial court's analysis demonstrates careful consideration of all evidence, proper application of legal principles, and sound reasoning in reaching its conclusion. No perversity, misreading, or non-reading of material evidence is established that would warrant appellate interference. The conviction is based on credible evidence establishing possession of

commercial quantity of *charas* beyond reasonable doubt. The sentence of nine years rigorous imprisonment with Rs.80,000 fine falls within the statutory framework under Section 9(c) CNS Act and is proportionate to the gravity of the offense. The benefit of Section 382-B Cr.P.C. for period already undergone reflects appropriate consideration of the accused's detention.

9. Upon comprehensive reappraisal of the entire evidence, legal arguments, and applicable law, this court finds that the prosecution has established beyond reasonable doubt that on 21st November, 2022, the appellant was found in conscious possession of 1600 grams of *charas* in commercial quantity. The recovery was properly documented, sealed at the spot, maintained in safe custody, transmitted through proper chain, and confirmed as *charas* through scientific analysis. The defense failed to create any reasonable doubt regarding the prosecution case, and their plea of false implication remains unsubstantiated. The trial court's judgment reflects judicious appreciation of evidence and correct application of law. No grounds exist for appellate interference with the conviction or sentence. Accordingly, appeal is dismissed; the conviction and sentence awarded to appellant Naeem Junejo vide judgment dated 13.01.2024 by the learned Additional Sessions Judge-I/Special Judge for CNS, Khairpur, in Special Case No.36 of 2023 for offence under Section 9(c) of the Control of Narcotic Substances Act, 1997, are maintained and upheld in their entirety. The appellant shall continue to serve the sentence of nine years rigorous imprisonment and fine of Rs.80,000 as awarded by the trial court. Office to communicate this judgment to jail authorities forthwith for compliance.

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