

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Sp. Cr. Appeal No. D-26 of 2024

Before:

Mr. Justice Amjad Ali Bohio, J.

Mr. Justice Khalid Hussain Shahani, J.

Appellant : Shah Jahan son of Khair Muhammad, Abro
Through Mr. Rukhsar Ahmed Junejo, Advocate

The State : Through Mr. Aftab Ahmed Shar, Addl. P.G

Date of hearing : 10.12.2025
Date of decision : 10.12.2025

ORDER

KHALID HUSSAIN SHAHANI, J. – The appellant, Shah Jahan Abro, stands convicted by the learned Additional Sessions Judge (MCTC), Mirwah, vide judgment dated 03.02.2024 in Special Case No.213/2023 (arising from Crime No.23/2023, P.S. Kot Laloo), for an offence under Section 9 (5) (c) of the Control of Narcotics Substances (Amended) Act, 2022. He was sentenced to rigorous imprisonment for nine years, coupled with a fine of Rs.100,000/- (in default, six months' simple imprisonment), benefit under Section 382-B Cr.P.C having been extended.

2. The prosecution narrative, as unfolded in the FIR recorded by ASI Bashir Hassan Bhayo on 03.04.2023, recounts that during a patrol at Paryal Burdi around 1600 hours, the police party spotted a suspect clutching a green kerchief, who fled upon sighting them but was nabbed after 20-25 paces. Search yielded a white shopper within the kerchief containing four sachets of opium totaling 1200 grams, alongside an OPPO mobile phone, original CNIC, and Rs.500/- in cash. A memo of arrest and recovery was duly prepared, precipitating registration of the case.

3. Learned counsel for the appellant, at the threshold, invites judicial notice to the chemical report (Ex.05/A), which reveals that the parcel for analysis, dispatched via memo No.22629 dated 04.04.2023 from P.S. Kot Laloo Malkhana was received at the Chemical Laboratory, Rohri

(Sukkur), on 05.04.2023 by P.C. Mardan Ali. Strikingly, the prosecution offers no explanation for the parcel's custody in the interregnum, fatally undermining the integrity of safe transmission and custody. In these compelling circumstances, counsel persuasively urges that the appellant's sentence already undergone constitutes ample punishment, warranting appellate intervention.

4. The learned Additional Prosecutor General graciously concedes this vital infirmity and, in the peculiar facts at hand, raises no objection to modulating the sentence accordingly.

5. While 1200 grams of contraband opium was undeniably recovered from the appellant, attractive to up to 14 years' rigorous imprisonment under the Act, the stark reality remains that he has endured over 2¾ years' incarceration. No legal bar impedes granting this equitable relief, unresisted by the prosecution. Thus, the appeal succeeds on sentence alone, the conviction under Section 9(5)(c) of the Control of Narcotics Substances (Amended) Act, 2022, stands affirmed, but the sentence stands commuted to the period already undergone, inclusive of default imprisonment for the fine. The appellant shall stand released forthwith, unless required in any other case.

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