

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Omar Sial
Justice Ms. Tasneem Sultana

Criminal Appeal No.508 of 2025

Appellant : Faraz Ahmed through Mr. Mazhar Iqbal Khan Niazi, advocate

The State : Through Mr. Muhammad Iqbal Awan, Additional Prosecutor General, Sindh

Date of hearing: 08.04.2026

Date of Judgment: 23.04.2026

JUDGMENT

Omar Sial J. On 26.03.2024, a police party led by S.I. Mohammad Yaseen was on patrol duty when it apprehended Faraz. He was found in possession of 3700 grams of methamphetamine (ice). He was arrested, and F.I.R. No. 91 of 2024 was registered under sections 6 and 9(2)(8) of the CNS Act, as amended by the Sindh Amendment Act of 2021.

2. Faraz pleaded not guilty and claimed to be tried. The prosecution examined PW-1 P.C. Ali Gul (witness to the arrest and recovery); PW-2 A.S.I. Shahbaz Ahmed Khan (maalkhana in charge); PW-3 S.I. Khalid Ahmed (the investigating officer); and PW-4 S.I. Mohammad Yaseen (the complainant).

3. The learned 2nd Additional Sessions Judge, Karachi West, convicted the accused and sentenced him to life imprisonment.

4. We have heard the appellant's counsel and the Additional Prosecutor General and have also re-appraised the evidence. Our findings and observations are as follows.

5. An area we have closely analysed is that of safe custody and transmission. We note that the prosecution witnesses were at odds over the quantity and packaging of the narcotics seized.

PW-1 P.C. Ali Gul testified that “*one shopper was in the hand of the accused, we checked the shopper which contained one another plastic shopper and it was wrapped in yellow tape.*” When the property was unsealed in court, three packets containing ice came out. He admitted that his section 161 Cr.P.C. statement did not mention the third packet that came out when the property was unsealed. The seizure memo, to which Ali Gul was a witness, states that three packets were recovered from the shopper. Two packets were wrapped in a black plastic bag and covered with yellow tape, whereas the third packet was wrapped in white plastic with yellow tape. According to the maalkhana in charge, PW-2 A.S.I. Shahbaz Ahmed Khan, the sealed parcel given to him, contained five packets (as informed by the complainant). The chemical analysts' report shows that three packets were sent to the laboratory, but only two contained ice. The report is silent regarding what was in the third packet.

6. The original Register XIX was not produced at the trial. An unattested copy of the Register XIX was produced. This copy was far from satisfactory, and it appears that endorsements may have been added to it subsequently. This anomaly could have been clarified if the original register had been seen. This was not done. No reason was recorded by the trial court as to why secondary evidence was admitted in evidence. The Road Certificate was not produced at trial. Be that as it may, even the evidence produced by the prosecution shows that the property was given to the investigating officer on 27.03.2024. The property, however, reached the laboratory two days later, i.e., on 29.03.2024. The investigating officer, PW-3 S.I. Khalid Ahmed, admitted that “It is correct that from the evening of 28.03.2024 till submission of the case property with the chemical examiner, *no record shows about its custody.*” This admission was sufficient to break the chain of safekeeping and transmission. This doubt was magnified by the observations made by us in the preceding paragraph.

7. It is now well settled that a conviction cannot be sustained if safe custody and transmission of the narcotics are not proved by the prosecution. In this case, it was not. Accordingly, the appeal is allowed, and the appellant is acquitted of the charge. He may be released if not required in any other custody case.

JUDGE

JUDGE