

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

Criminal Appeal No. D-28 of 2025

**PRESENT: Mr. Justice Riazat Ali Sahar
Mr. Justice Ali Haider 'Ada'**

Appellant	:	Mr. Safdar Ali Gouri, Advocate, holds brief on behalf of Mr. Habibullah G. Ghous Bux Shaikh
The State	:	Through Mr. Aitbar Ali Bullo, Deputy Prosecutor General, Sindh.
Date of Hearing	:	03-09-2026
Date of Judgment	:	03-09-2026

J U D G M E N T

RIAZAT ALI SAHAR, J.- Through this criminal appeal, appellant Farooque Ahmed has assailed the judgment dated 16.10.2025, passed by learned Special Judge for CNS/Sessions Judge, Kashmore @ Kandhkot, in Special Case No.18 of 2025, re-The State v. Farooque Ahmed, being outcome of F.I.R No.18 of 2025 registered with Police Station Ghauspur, District Kashmore @ Kandhkot, whereby the appellant was convicted for offence under Section 9(1)(3)(a) of the Sindh Control of Narcotic Substance (Amendment) Act, 2024 and sentenced to suffer R.I. for five (05) years and to pay fine of Rs.30,000/- (Rupees Thirty Thousand Only), and in default thereof to suffer S.I. for 01 month more. The benefit of Section 382-B, Cr.P.C. was extended to him.

2. According to the case of prosecution, on 19.04.2025, at about 0930 hours, the appellant was apprehended near Van Stand, within the jurisdiction of Police Station Ghauspur, by a police party headed by ASI Ghulam Yaseen Ogahi, and 420 grams of charas in shape of two pieces, contained in a black coloured shopper, along with cash amounting to Rs.250/-, were recovered from him; hence, such FIR was registered.

3. After arguing the appeal on merits to some extent, the learned counsel holding brief, under the instructions, submitted that in case the sentence awarded to the appellant is reduced to the period which he has served while being in incarceration, he would not press instant appeal on merits, as, according to learned Counsel, the appellant has sufficiently been punished, so he may be given a chance in his life to rehabilitate himself. Learned counsel further submitted that the appellant is a previous non-convict, aged about 29 years, and has physically remained in jail for 01-year, 02-months and 02-days and, therefore, he has already undergone a substantial portion of the sentence prescribed for the offence. Learned counsel further submitted that the conduct of the appellant in jail, as reported in the jail roll, has remained satisfactory and no other case is pending against him.

4. The learned Deputy P.G. has recorded no objection if the sentence of the appellant is reduced to that of already undergone, subject to appropriate reduction of fine.

5. The Senior Superintendent of Central Prison & Correctional Facility, Sukkur has submitted jail-roll of the appellant dated 03.09.2026, which on perusal reflects that **the appellant has served substantive sentence for 01-year, 02-months and 02-days, including the under-trial period. No remission has been earned by the appellant. The appellant was convicted for possession of 420 grams of charas. The punishment prescribed for possession of charas below 500 grams is imprisonment which may extend to five years but shall not be less than ten months, along with fine which may be up to sixty thousand rupees.** The appellant has thus undergone a substantial portion of the sentence prescribed for the offence. The **conduct** of appellant in jail is also “**satisfactory**”, as reported by the jail authorities. The appellant is shown to be a previous non-convict and no other case is pending against him. In these circumstances, we are of the view that the period already undergone by the appellant is an adequate portion of sentence.

6. It is a well-established principle of law that in special circumstances, the Court at its discretion can divert from the norms and standards prescribed in terms of sentencing after assigning cogent reasons. In this respect, reliance is placed on the case of *State through Deputy Director (Law), Regional Directorate, Anti-Narcotics Force v. Mujahid Naseem Lodhi* (PLD 2017 SC 671). Moreover, the

Apex Court in somewhat similar cases reported as *Sherzada v. The State* (1993 SCMR 149) and *Gul Badshah v. The State* (2011 SCMR 984) was pleased to reduce the sentence.

7. Accordingly, instant criminal appeal is **dismissed** and the impugned judgment to the extent of conviction of appellant is maintained; however, the sentence awarded to him by the trial Court is modified and reduced to that of already undergone. The sentence of fine is also modified and reduced from Rs.30,000/- to Rs.1,000/- (Rupees One Thousand Only), and in default thereof, the appellant shall suffer S.I. for 07 days. The appellant is in jail; he shall be released forthwith, subject to deposit of fine amount of Rs.1000/-, if not required to be detained in any other case.

JUDGE

JUDGE

Zulfiqar