

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT  
LARKANA.**

**Criminal Jail Appeal No. D-08 of 2022**

**Before:**

*Mr. Justice Omar Sial,*

*Mr. Justice Arbab Ali Hakro,*

Appellant : Deedar S/o Dhani Bux Sanjrani,  
Through Mr. Javed Ahmed Soomro, Advocate.

The State : Through Mr. Ali Anwar Kandhro, Addl. Prosecutor  
General.

Date of hearing : 19-11-2025.

Date of decision : 11-12-2025.

**JUDGMENT**

**ARBAB ALI HAKRO, J.-** Through the instant Criminal Jail Appeal, an appellant Deedar Sanjrani, has impugned and called in question the Judgment dated 05.03.2022 passed by the First Additional Sessions Judge/Special Judge Narcotics(MCTC), Kamber, in Special Case No.29 of 2022 arising out of Crime No.282 of 2021 registered at Police Station Kamber City, for an offence punishable under Section 9(c), Control of Narcotic Substances Act, 1997, whereby he was convicted for an offence under section 9(c), CNS Act, 1997 and sentenced to imprisonment for life and to pay fine of Rs.500,000/- (Rupees Five Lac), in case of non-payment of fine, he was ordered to suffer imprisonment for 10 years more. However, the appellant was extended the benefit of Section 382-B, Cr.P.C.

2. Brief facts of the prosecution case are that on 16.11.2021, complainant SIP Attaullah Mirani, along with his subordinate staff, left Police Station vide roznamcha entry No.20 at 1300 hours in the Govt. vehicle for patrolling. During patrolling, they reached Tunia Petrol Pump at Chajjra Bypass; he received spy information that one person was coming from Mirokhan to Kamber in a Mehran Car bearing registration No.AEL-449 and the charas was lying in the said car. On such information, they held Naka bandi at the Kamber-Mirokhan road, Noor wah bridge and intercepted a Mehran Car at 1400 hours, driven by Deedar Ali S/o Dhani Bux Sanjrani (the appellant) and recovered a bag(Bachka) beneath the rear seat, containing 60

packets of contraband charas, each weighing 01 kilogram, total 60 kilograms. Due to the non-availability of public persons, a complainant has nominated HC Ashique Ali and HC Muhammad Hayat as mashirs. A personal search of the accused was conducted, during which Rs. 1500/- were recovered from the right side pocket of his shirt. A complainant separated 100 grams of charas from each packet as a sample for chemical analysis and sealed the same. He also sealed the remaining quantity into a separate parcel and thereafter prepared a mashirnama of arrest and recovery at the spot. Thereafter, the appellant and the case property were brought to the Police Station, where a complainant had lodged an FIR against him on behalf of the State.

3. On completion of the investigation, a challan was submitted against an appellant. A formal charge was framed against an appellant by the trial Court to which he pleaded 'not guilty' and claimed to be tried.

4. To prove its case, the prosecution examined as many as four witnesses. After the prosecution's evidence was closed, the appellant's statement was recorded under Section 342 Cr. P.C., wherein he denied the prosecution's allegation and professed his innocence. He, however, declined to be examined on oath under section 340(2) Cr. P.C or to produce evidence in defence.

5. On conclusion of the trial, the trial Court, on evaluation of the material and hearing counsel for the parties, convicted and sentenced the appellant vide impugned Judgment, as discussed above. Being aggrieved by and dissatisfied with the said Judgment, the appellant has preferred this criminal jail appeal.

6. With the assistance of learned counsel for the appellant as well as learned Additional Prosecutor General, we have gone through the evidence of prosecution witnesses and the statement of the appellant recorded under section 342, Cr.P.C.

7. The learned counsel for the appellant contended that the prosecution had failed to prove the charge against the appellant beyond a reasonable doubt. According to him, an appellant is a taxi driver, and on 16.11.2021, he was hired by two unknown men and two unknown women who were carrying luggage. It is further contended that during the journey, the police intercepted the car and recovered the charas, but instead of

apprehending the passengers, they released them and falsely implicated the present appellant by foisting the case property upon him. The trial Court had not properly appraised the evidence, resulting in a grave miscarriage of justice. He argued that there is a violation of Section 103, Cr.P.C. He argued that the sample was sent to the Chemical Examiner after seven days of alleged recovery, whereas the Control of Narcotic Substances Chemical Analysis Rules, 2001 require it to be sent within 72 hours. He further argued that there are material contradictions in the prosecution's case, casting doubt on the case. Lastly, the learned counsel submits that the appellant, being innocent, was falsely implicated in this case by the police; otherwise, he had nothing to do with the alleged incident, and the evidence of the witnesses has been found doubtful by the learned trial Court without lawful justification. Therefore, he is entitled to be acquitted by extending him the benefit of doubt.

8.               Conversely, the learned Additional Prosecutor General has fully supported the impugned Judgment, asserting that the prosecution had successfully established its case beyond a reasonable doubt, and the trial Court rightly awarded a conviction to the appellant after applying its judicial mind. It is further contended that alleged procedural lapses do not undermine the conviction, which is based on admissible evidence.

9.               We have considered the arguments of learned counsel for the appellant and learned Additional Prosecutor General for the State and perused the record carefully with their able assistance.

10.              On evaluation of the evidence and material record produced in support by the prosecution, the case of the prosecution is squarely dependent upon the ocular evidence of the official witnesses and the recovery and seizure of narcotics contraband. Perusal of the record reveals that on 16.11.2021, a complainant, SIP Attaullah Mirani, along with his staff, left Police Station Kamber City for patrolling vide roznamcha entry No.20 at 1300 hours, during which, spy information was received that a person was transporting charas in a Mehran car bearing registration No.AEL-449. A nakabandi was arranged at Noor Wah bridge, where the appellant was intercepted at 1400 hours while driving the said car. From beneath the rear seat, a bag containing 60 packets of charas, each weighing one kilogram (total 60 kilograms), was recovered. Samples of 100 grams from each packet were separated, sealed and sent for chemical analysis. In order to prove the

case, the prosecution has examined SIP Attaullah Mirani, who is the complainant as well as an Investigation officer of the case, WASI Riaz Hussain Panhwar, incharge of the Malkhana, HC Muhammad Ramzan, who deposited the case property at the Chemical Examiner's office and HC Ashique Ali Gopang, the mashir of arrest and recovery. The prosecution witnesses have deposed in a consistent and corroborative manner regarding the arrest of the appellant, the recovery of the contraband, its seizure, and the subsequent forensic analysis. Their depositions are in consonance on all material particulars, including the interception of the Mehran Car carrying a huge quantity of charas and the steps taken thereafter. The prosecution witnesses were thoroughly cross-examined by the defence, but their testimony remains consistent, confidence-inspiring and free from material contradictions; thus, it remained unshaken and unshattered. Therefore, it cannot be discarded solely based on minor discrepancies. The report of the chemical examiner, available in the record, has also been examined and fully supports the prosecution witnesses' testimony. The record shows that the recovered case property was duly sealed at the spot, and a separate sample was sent to the chemical examiner for analysis. The Chemical Examiner confirmed that the sealed parcel was intact and free of tampering, and the analysis report returned a positive result. Furthermore, all prosecution witnesses have consistently stated that the case property produced in Court is the same as that which was recovered from the accused. At no stage did the learned defence counsel cross-examine them on the point of alleged tampering, nor was any such suggestion made. In view of the above, the recovery of charas from the possession of the appellant stands proved beyond doubt. A person of ordinary prudence would readily conclude that such a massive quantity of narcotics could not possibly have been foisted upon an accused by the police at its own.

11. It is necessary to emphasize the seriousness of narcotics offences and their damaging impact on society at large. The law is well settled that minor procedural or technical lapses cannot be permitted to outweigh the substance of a case where the guilt of the accused stands otherwise established. The Supreme Court of Pakistan has consistently held that procedural irregularities should not defeat the ends of justice. In this regard, reference may be made to the case of **Ismail v. The State reported in 2010 SCMR 27**, wherein it was held as under:-

...it is now settled proposition of law by flex of time that in the case of transportation or possession of narcotics, technicalities of procedural nature or otherwise should be overlooked in the larger interest of the country, if the case stands otherwise proved the approached of the Court should be dynamic and pragmatic, in approaching facts of the case and drawing correct and rational inferences and conclusion while deciding such type of the cases. The Court should consider the entire material as a whole, and if it is convinced that the case is proved, then a conviction should be recorded notwithstanding procedural defects as observed by this Court in Munawar Hussain's case 1993 SCMR 785.

12. Now, advertent to the contention raised by the defence counsel with regard to the violation of Section 103, Cr.P.C, it is pertinent to note that Section 25 of the Control of Narcotic Substances Act, 1997 clarifies that while conducting search and arrest, strict adherence to Section 103 of the Code is not mandatory. The provision is subject to compliance with Section 21 of the CNS Act, 1997. Further, it allows relaxation in circumstances where immediate action is required, such as, the possibility of escape by the accused or concealment, removal, or destruction of the case property, which may otherwise hinder the prosecution in proving its case. The Supreme Court of Pakistan has consistently held that police officials are competent witnesses and the absence of independent witnesses does not, by itself, vitiate the prosecution case. The exclusion of private witnesses can be excused where the prosecution has otherwise established its case through reliable evidence. It is a well-settled principle of law that the testimony of police officials is as trustworthy as that of any other witness, provided there is no evidence of enmity or ill-will against the accused. In the present case, the evidence of the police witnesses stands corroborated on all material aspects. We, therefore, find no merit in the contention raised by the learned counsel for the appellant. In the case of **Zafar v. the State** reported in **2008 SCMR 1254**, The Supreme Court of Pakistan has held as under:-

".....It would mean that applicability of section 103, Cr.P.C in the narcotics cases has been excluded and non-inclusion of any private witness is not a serious defect to vitiate the conviction. Reference in this context can be placed on the cases of Muhammad Shah and others v. the State, PLD 1984 SC 278; State v. Muhammad Amin, 1999 SCMR 1367; Fida Jan v. the State, 2001 SCMR 36; and Rasool Bakhsh v. the State, 2005 SCMR 731.

13. The plea advanced by the defence that an appellant was a taxi driver hired by unknown passengers who allegedly carried the contraband charas is devoid of merit. The recovery of sixty kilograms of charas was effected from beneath the rear seat of the vehicle, which was in the

exclusive possession and control of the appellant. The law presumes conscious possession when narcotics are recovered from a place under the direct control of the accused, unless he produces cogent evidence to rebut such presumption. In the present case, the appellant neither identified the alleged passengers nor produced any evidence to substantiate their existence. A bare assertion in the statement under Section 342, Cr.P.C., unsupported by evidence, cannot outweigh the consistent and confidence-inspiring testimony of the prosecution witnesses. The manner of concealment of sixty packets hidden beneath the rear seat further indicates deliberate possession rather than incidental carriage of passengers' luggage. Thus, the defence plea is an afterthought and fails to raise any reasonable doubt about the prosecution's case.

14. As to the contention of learned defence counsel that the sample was sent to the Chemical Examiner after seven days, whereas the Rules require dispatch within 72 hours, we find that this delay, in itself, does not vitiate the prosecution case. The chemical examiner's report confirms that the sealed parcels were intact and free from tampering. Hence, the integrity of the recovered substance remains unimpaired. The contention of learned defence counsel regarding the appellant carrying two currency notes of Rs. 500/- is without merit. The recovery of narcotics is the central issue, and the presence or absence of additional money in the possession of the appellant does not affect the prosecution's case.

15. After analyzing the prosecution evidence, we are of the considered view that the prosecution has successfully discharged its initial burden of proof. Once the prosecution produces sufficient and reliable evidence, the onus shifts to the accused to rebut the presumption of guilt, as envisaged under Section 29 of the Control of Narcotic Substances Act, 1997. In the present case, the recovery of a massive quantity of narcotics leaves no room to suggest false implication, particularly in the absence of any proven enmity between the appellant and the police officials. The prosecution witnesses have given trustworthy and confidence-inspiring testimony, duly corroborated by documentary and forensic evidence. In rebuttal, the appellant has failed to bring forth any tangible material to discredit the prosecution's case or to shake the credibility of its witnesses.

16. We, as a result of the above discussion, are of the considered view that the prosecution has successfully proved its case against the

appellant beyond any shadow of a reasonable doubt. The defence has miserably failed to extract any material discrepancies or contradictions from the statements of the prosecution witnesses. Resultantly, this appeal, being devoid of merit, is dismissed, and the conviction and sentence awarded to the appellant by the learned trial Court vide impugned Judgment dated 05.03.2022 are upheld.

JUDGE

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