

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Appeal No.S-66 of 2024

<><><>

Appellant: Faisal son of Muhammad Soomar
Through Mr. Ghulam Shabbir Mari, Advocate
called absent.

Respondent: The State
Through Mr. Shahzado Saleem, Additional
Prosecutor General (Sindh).

Applicant/Surety: Through Mr. Aziz Ahmed Laghari, Advocate.

Dates of hearing **11.12.2025**

Date of Judgment **11.12.2025**

<><><><>

JUDGMENT

Shamsuddin Abbasi, J.- Faisal son of Muhammad Soomar, appellant, has assailed the judgment dated 26.03.2022, penned down by the learned Additional Sessions Judge-II, Sanghar, in Sessions Case No.590 of 2021, arising out of F.I.R No.197 of 2021 registered at Police Station Sanghar, for offence under Section 24 of Sindh Arms Act, 2013 through which he was convicted and sentenced to undergo rigorous imprisonment for 03 years and to pay a fine of Rs.20,000/- and in default thereof to suffer simple imprisonment for 03 months more.

2. FIR in the present case was lodged on 24.10.2021 at about 1430 hours at Police Station Sanghar. The complainant SIP Ghulam Muhammad Dahri stated that on 24.10.2021 at about 1230 hours he, along with his subordinate staff left the police station for patrolling vide Roznamcha Entry No. 13 in police mobile and during patrolling, they stopped at police check post situated on Sanghar–Nawabshah Road for checking. At about 1330 hours, a motorcycle carrying two persons came from Mangli Road towards Nawabshah Road bypass. On being signaled to stop, one of the riders allegedly escaped by taking advantage of standing crops, while the other was apprehended and disclosed his name as Faisal son of Muhammad Soomar. On personal

search, one 30-bore T.T pistol without number along with four live bullets was recovered from the right fold of his shalwar. A motorcycle CD-70 bearing Registration No.HBX-9538, Model 2017, was also secured, which was claimed to be stolen property required in Crime No. 196/2021 under Section 381-A PPC of the same police station. Due to non-availability of private mashirs, the memo of arrest and recovery was prepared in presence of police officials and thereafter FIR No.197/2021 under Section 23(1)(a) of the Sindh Arms Act, 2013 was registered against the accused.

3. Pursuant to the registration of FIR, the investigation was followed and in due course the challan was submitted before the Court of competent jurisdiction, whereby the appellant was sent up to face the trial.

4. A charge was framed against appellant. He pleaded not guilty to the charged offence and claimed trial.

5. At trial, the prosecution has examined as many as three witnesses. PW-01/Mashir HC Sardar Ali examined at Ex.04, PW-02 complainant SIP Ghulam Muhammad examined at Ex.05 and PW-03 I.O ASI Taj Muhammad examined at Ex.06. All of them have exhibited certain documents in their evidence and were subjected to cross-examination by the defence. Thereafter, the prosecution closed its side vide statement Ex.07.

6. Statement of appellant under Section 342, Cr.P.C. was recorded at Ex.08, wherein he has denied the allegations levelled against him by the prosecution, professed his innocence and claimed that he has been falsely implicated by the police. He, however, opted not to make a statement on oath under Section 340(2), Cr.P.C. nor did he produce any witness in his defence.

7. Upon culmination of the trial, the learned Trial Court found the appellant guilty of the offence charged with and, thus, convicted and sentenced him as detailed in para-1 (supra), which necessitated the filing of the instant appeal.

8. Learned counsel for the appellant is called absent. I have gone through the pleadings of the appeal and following grounds were taken by the appellant:-

1. That, impugned Judgment passed by learned trial court is opposed to law, facts and justice.
2. That, while passing impugned judgement the learned trial court has not applied its mind judiciously and properly.
3. That, the learned trial court has failed to point out that there is no any private witness, mashir except the police hence the malafide is evident and judgment is liable to be set aside.
4. That, the motive as sought to be set-up by the prosecution had not been proved therefore the involvement of the accused /appellants as such is highly doubtful.
5. That, the learned trial court has shuttered off the door of justice towards the applicant/accused passing said judgement.
6. That, the, the learned trial court failed to consider that there was no iota of evidence to prove the case against the appellants as per record available with him.
7. That, findings of learned trial court are based on misreading and non-reading of evidence.
8. That, the learned trial court erred in relying over the prosecution case and totally ignored the evidence on record and facts stated by the accused.
9. That, impugned judgement passed by learned lower trial court is neither speaking one nor justifiable under the law.
10. That no cogent, convincing, plausible and justifiable explanations, findings are given for passing such unlawful judgement.

09. Learned A.P.G for the State submits that prosecution has successfully proved its case beyond any shadow of doubt and learned trial court has appreciated the evidence brought on record by the prosecution, therefore, learned trial court has rightly convicted the appellant and there is no question of mis-reading and non-reading of the evidence.

10. Heard and perused the material available on record.

11. The appellant was tried by the learned 2nd Additional Sessions Judge, Sanghar in Sessions case No.590/2021, arising out of crime No.197/2021 for the offence under section 23(i)(a) of Sindh Arms Act, 2013. After full-fledged trial, appellant was convicted under section 24 of Sindh Arms Act, 2013 and sentenced to suffer R.I for three years with fine of Rs.20,000/- (Twenty Thousand) and in case of default, he shall suffer R.I more for three months. The benefit of section 382-B Cr.P.C was also extended to the appellant. He preferred appeal and same was admitted on 21.04.2022 for regular hearing. On 29.04.2022, the appellant was admitted on bail. Record reflects that after releasing on bail, the appellant has never appeared in court and on 30.05.2022 22.12.2022 B.Ws were issued against the appellant and notice was issued to his surety. Neither appellant appeared nor his surety. On 20.11.2025, NBWs were issued against the appellant as well as his surety. Today, Mr. Hashim Bajeer advocate has filed Vakalatnama on behalf of the surety and submits that appellant is declared as proclaimed offender in crime No.87/2024 of PS Shahpur Chakar and he is not traceable, therefore, surety is unable to produce him. Further learned counsel for the surety submits that the surety may be forfeited.

12. In view of above, bail bond is cancelled and surety amount is forfeited. It is matter of record that appellant had not appeared on single date of hearing after releasing on bail since 29.04.2022. It has also come on record that appellant is proclaimed offender in FIR No.87/2024 of PS Sanghar for offence under section 365-B, 34 PPC and SHO PS Sanghar has furnished report that appellant has concealed himself to an unknown place and not traceable.

13. I have gone through the material available on record which reveals that the prosecution has brought the case against the appellant beyond shadow of doubt. The operative para of impugned judgment is reproduced as under:-

“Upshot of my above discussion is that prosecution has successfully proved the recovery of un-licensed T.T pistol of 30 bore with four live bullets from the possession of accused, which was in functioning condition, while riding on stolen Honda CD-70 Motorcycle, Model 2017 of red colour, which was theft by him from Bhattai Electronic Shop on 20.09.2021, which case property was sealed at spot by SIP Ghulam Muhammad Dahri in presence of complainant and witnesses/mashirs Sardar Khan and P.C Salim. The defence side has failed to create any doubt and dent in the prosecution story. The accused has been charged U/S 23 (1) (a) of Sindh Arms Act 2013 but in the case reported in S.B.L.R 2015 Sindh 310, Honourable High Court of Sindh Karachi has held that recovery of unlicensed pistol with bullets from the possession of accused falls within the definition of “Arms” as provided in Section 2 of the Act, which is punishable U/S 24 of Sindh Arms Act 2013, but the punishment provided under this Section is less than the Section of 23 (1) (a) Sindh Arms Act 2013 under which accused was charged and tried, as such, in view of the case law reported in 1991 S.C.M.R 1268 the accused can be convicted for the offence which he is shown to have committed, therefore, I convict accused Faisal S/O Muhammad Soomar by caste Umrani U/S 265 H (ii) Cr.P.C and award him sentence U/S 24 of Sindh Arms Act 2013 to suffer R.I for three (03) years and fine of Rs.20,000/- (Rupees Twenty Thousand). In default thereof three (03) months R.I. The benefit of Section 382-B Cr.PC is also extended to him. Accused is present on bail, his bail bond stands cancelled and surety is discharged. He is taken into custody and remanded to Central Prison and Correctional Facilities, Hyderabad through District Prison & Correctional Facilities, Sanghar with conviction slip to serve out his aforesaid sentence”

14. I do not see any illegality or material irregularity committed by the learned trial court while convicting the appellant and no question of mis-reading and non-reading arises which has been passed after fair evaluation of evidence beyond shadow of doubt.

15. In view of above, appeal filed by the appellant Faisal S/o Muhammad Soomar is **dismissed** and office is directed to issue perpetual warrant of arrest against the appellant to serve out his remaining sentence.

Appeal stands disposed of in above terms.

JUDGE

Faisal