

HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Criminal Appeal No.S-22/2026

(Hassan Ali V. The State)

Appellant/accused : Hassan Ali s/o Gul Muhammad
Through Mr. Afzal Kareem Virk, Advocate.

Respondent : The State
Through Mr. Neel Parkash, D.P.G.

Date of hearing & short order: 16.10.2026

Date of detailed reasons : 21.10.2026

J U D G M E N T

Nisar Ahmed Bhanbhro, J: This Criminal Appeal is directed against the Judgment dated 25-05-2026 (**impugned judgment**) passed by the learned Additional Sessions Judge, Khipro (**Trial Court**) in Sessions Case No. 162/ 2026 (arising out of F.I.R bearing Crime No. 35/ 2026 for offence under section 24 of Sindh Arms Act, 2013 of PS Khahi) "*The State vs. Hassan Ali*" whereby the appellant was convicted for the charge and and sentenced to suffer R.I for seven years and to pay fine of Rs. 20,000/, in case of default thereof to further suffer S.I for two months, with benefit of section 382-B Cr.P.C.

2. The facts as unfolded in prosecution in nutshell are that on 10.04.2026 at 0830 hours complainant SIP Khamiso Khan Malik lodged F.I.R on behalf of the State alleging therein that on said date he alongwith subordinate staff every one namely PC-Ghulam Mustafa and PC Nabi Bux left the police station in official vehicle, vide entry No.19 at 0630 hours for patrolling purpose. During

patrolling when reached at Kathoro Mori, they saw a suspect person, who upon seeing police party tried to skip away, but was apprehended by applying professional tricks. On query he disclosed his name as Hassan Ali S/o Gul Muhammad Mari r/o Village Mooso Mari. Personal search of the suspect was made, from left fold of shalwar a T.T pistol without number with magazine containing two live bullets of 30 bore were recovered. Police inquired about license of pistol, on which he disclosed that it was without license. Suspect was arrested and the pistol and bullets were sealed and memo of arrest and recovery was prepared in presence of PC-Ghulam Mustafa and PC-Nabi Bux. Accused along with recovered property was brought at the police station, where complainant lodged instant F.I.R.

3. Investigation followed its course and report under Section 173 Cr.P.C was submitted before the concerned Learned Judicial Magistrate. Since alleged offence is exclusively triable by the Court of Sessions, therefore, learned Judicial Magistrate sent the R&Ps of this case to learned Trial Court. The appellant was indicted for charge. In order to prove its case prosecution examined Complainant S.I.P Khamiso Khan and witnesses namely P.C Ghulam Mustufa (witness cum mashir) and A.S.I Ambeer Baig (I.O). Prosecution closed its side for evidence. Statement of accused under section 342 Cr.P.C was recorded wherein he professed innocence. Learned Trial Court after hearing the parties, convicted the appellant of the charge; hence this Criminal Appeal.

4. Learned Counsel for the appellant contended that appellant is innocent and was falsely involved in this case due. He next contended that appellant is a poor person having no criminal record. He further contended that recovery was allegedly affected during day time, but none from the public was associated as mashir though place of arrest was a populated area. He further contended that there are material contradictions in the statement of P.Ws, which were not considered by learned trial court. He placed reliance upon the

case of **Qaddan and others V. The State (2017 SCMR 148)**, **Wahid Bux @ Wahido V. The State (2022 P.Cr.L.J 1631)** and **Zaffar V. The State (2019 P.Cr.L.J (Note) 164)** and, prayed to set aside the impugned judgment and acquit the appellant.

5. Learned D.P.G contended that recovery was affected from the person of the appellant/ accused. He next contended that police officials are as good witnesses as private person. He further contended that prosecution witnesses remained consistence in their depositions, hence no case of indulgence was made out, therefore, prays for dismissal of instant Appeal.

6. **Heard arguments** and perused the material available on record. From perusal of record, it transpired that alleged incident had taken place at 0700 hours, in the morning, near Kathroo *Mori* over a public thorough fare, but none from the public was associated as mashir. The area, wherefrom the appellant was allegedly arrested, is a rural area where people usually wake up early in the morning but none from the public was associated as mashir and all the prosecution witnesses are police officials, though I.O of the case PW 3 Ambeer Baig admitted that place of arrest and recovery was a populated area. The recovery was allegedly made on 10-04-2026 while recovered property was sent for the forensic analysis on 14-04-2026; however, no explanation was furnished that in between the intervening period, whether the property was kept in safe custody, more particular when incharge *Malkhana* was also not examined by the prosecution to prove the safe custody of allegedly recovered weapon. It appears that safe custody of the recovered weapon was compromised. The prosecution witness i.e. complainant S.I.P Khamiso Khan deposed that PC Ghulam Mustufa caught hold the accused first and also handcuffed the accused, whereas PC Ghulam Mustafa has contradicted such assertion. Furthermore, there is marked difference in between signatures of mashirs PC Ghulam Mustufa and PC Nabi Bux on mashirnama of arrest and recovery and

on mashirnama of inspection of place of wardat, which shows that the proceedings were conducted at the police station.

7. No doubt the police officials are as good witnesses as other persons from public, but in order to augment the authenticity of recovery proceedings. It was incumbent upon the police party to ask people from public to associate with the recovery and arrest, but PW -1 Complainant Khamiso Khan and PW - 2 Ghulam Mustafa deposed that none from public was available there, however I.O PW -3 Ambeer Baig deposed that place of recovery was a populated area.

8. It is settled principle of law that multiple circumstances are not required to create doubt in the prosecution case and even a single circumstance creating reasonable doubt in the prosecution case is sufficient to extend its benefit to the accused. The major contradictions in the prosecution case, cuts at its root and benefit of the same is given to the applicant/ accused. Reliance in this regard is placed upon the cases of Zaffar and Wahid Bux @ Wahidoo (supra), wherein it was held by this Court that single circumstance creating reasonable doubt in a prudent mind was sufficient to discredit the prosecution story and extend its benefit to the accused.

9. For the aforesaid reasons, instant Criminal Appeal is allowed and conviction and sentence awarded to appellant Hassan Ali s/o Gul Muhammad Mari through impugned judgment dated 25-05-2026 is set aside and appellant is acquitted from the charge. He is ordered to be released forthwith if not required in any other case.

10. The appeal was allowed vide short order dated 16-10-2026 and these are the reasons for the same.

JUDGE

Approved for reporting

“Saleem”