

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Revision Application No. 27 of 2025

Before:

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Khalid Hussain Shahani

Applicant : State / Anti-Narcotics Force
[through Assistant Director (Law)]
Through Mr. Musharraf Azhar,
Special Prosecutor ANF.

Respondent : Arslan Anwar Khan S/o M. Anwar Khan

Date of hearing : 08.09.2026

Date of order : 08.09.2026

ORDER

KHALID HUSSAIN SHAHANI, J. – Through this criminal revision application, the State, acting through the Anti-Narcotics Force, seeks enhancement of the sentence awarded to respondent Arslan Anwar Khan by the learned Judge, Special Court-I (Control of Narcotic Substances), Karachi, through judgment dated 27.09.2024 in Special Case No.89 of 2021, emanating from F.I.R. No.95 of 2012, Police Station ANF Muhammad Ali Society, Karachi. The respondent was convicted under section 9(b), read with the allied provisions noted in the judgment, of the Control of Narcotic Substances Act, 1997 and sentenced to the imprisonment already undergone, with benefit of section 382-B, Cr.P.C.

2. The controversy has an unusually long procedural history and cannot be understood by isolating the impugned sentence from the events preceding it. On 27.11.2012, the respondent was intercepted at Karachi Airport while intending to travel abroad. The prosecution case was that he had swallowed forty-nine capsules containing heroin powder weighing 549 grams; the capsules were subsequently expelled through a medically supervised procedure. He was arrested, an F.I.R. was registered, and Special Case No.119 of 2012 followed.
3. In the first round, the respondent voluntarily pleaded guilty. By order dated 13.12.2012, the Special Court accepted the plea after recording its satisfaction that it was voluntary and true, convicted him under section 6/9(b) of the Act, and sentenced him to rigorous imprisonment for the period already undergone, which was seventeen days, extending to him

the benefit of section 382-B, Cr.P.C. The Court noticed, inter alia, his youth, first-offender status, the peculiar and life-endangering mode of carriage, and the fact that he had admitted guilt instead of prolonging the trial.

4. The ANF challenged the quantum of sentence through Criminal Appeal No.114 of 2018. A Division Bench of this Court, by order dated 11.11.2021, observed that the prescribed sentencing framework and the guidelines in PLD 2009 Lahore 362¹ required consideration. The conviction founded upon the guilty plea was not displaced. The sentence alone was set aside and the matter was remanded to the Special Court to hear the parties, determine whether special mitigating circumstances existed, and impose sentence in accordance with law. Protective bail was granted to enable the respondent to appear before the trial Court.
5. Thus commenced the second round. The matter was renumbered as Special Case No.89 of 2021 and, after further proceedings extending over nearly three years, the learned Special Court pronounced judgment on 27.09.2024. The respondent was again taken into custody on that date; he was convicted and sentenced to the period already undergone with the benefit of section 382-B, Cr.P.C., and was released the same day. The jail roll dated 13.05.2025 confirms both his admission to prison on 27.09.2024 and his release on the date of judgment.
6. Learned Special Prosecutor has urged that the sentence is disproportionately lenient when tested against the quantity of narcotic substance and the sentencing guidance recognized in the earlier appellate order; according to him, the Special Court was bound to assign compelling reasons before departing from the ordinary benchmark.
7. The question for determination before us would be: whether, despite any arguable inadequacy in the articulation or quantum of the sentence, revisional interference at this late stage, followed by another sentencing exercise or re-committal to custody would be lawful, proportionate, and conducive to the administration of criminal justice?
8. Revisional jurisdiction is corrective and supervisory. It is not a mechanical jurisdiction for substituting one possible sentence with another merely because the revisional Court might initially have taken a sterner view. Interference with sentence is justified where it is illegal, wholly arbitrary,

¹ *Ghulam Murtaza v. The State.*

perverse, founded upon an irrelevant consideration, or so manifestly inadequate as to occasion a failure of justice. Even then, the Court must examine the entire subsequent history. A sentence does not operate in a vacuum; its justice is assessed in relation to the offence, the offender, the lapse of time, the conduct of the parties, the custody already suffered, the finality legitimately generated by judicial orders, and the practical consequences of reopening the matter.

9. The rule in Ghulam Murtaza (supra) supplies structured sentencing guidance in narcotics cases and promotes consistency. It does not, however, convert sentencing into an arithmetical exercise or extinguish judicial evaluation of proved mitigating circumstances. The earlier appellate order itself recognized this distinction: it remanded the matter so that the Special Court could determine whether special mitigation existed. The authority therefore has to be applied as a guide to principled discretion, not as a command to disregard the individual history of a case.
10. Several circumstances, insignificant if viewed separately, acquire decisive cumulative force here. First, the respondent admitted guilt at the threshold. A plea of guilt does not erase the offence, but it is legitimate mitigation because it demonstrates acceptance of responsibility, spares public resources, and relieves the prosecution of a contested trial. Secondly, the respondent was a young first offender; no material has been shown suggesting that he subsequently returned to criminality. Thirdly, he underwent custody immediately after arrest and was again exposed to incarceration when the second judgment was pronounced. Fourthly, he complied with the remand process instead of evading it. Fifthly, the occurrence belongs to November 2012, while the second sentence was imposed in September 2024 and the State's challenge remains pending in 2026. This extraordinary lapse is not attributable solely to the respondent.
11. Delay does not by itself legalize an unlawful sentence, nor may an offender claim immunity merely because judicial proceedings have moved slowly. But prolonged delay is relevant when the Court is asked to enhance a sentence already served. The coercive force of criminal law must remain purposeful. After a person has pleaded guilty, suffered custody, obtained release under two judicial determinations separated by appellate remand, remained subject to proceedings for nearly fourteen years, and reorganized his life around the apparent conclusion of the case, a renewed custodial sentence ceases to be merely corrective. It risks becoming an additional punishment produced by the process itself.

12. The State's legitimate interest in denunciation and deterrence has not vanished. It has, however, already been vindicated through conviction, the respondent's public submission to criminal process, his periods of confinement, and the prolonged restraints and uncertainty inseparable from two rounds of proceedings. Specific deterrence is weak where no subsequent misconduct is shown. General deterrence, though important in narcotics cases, cannot be pursued by sacrificing individualized justice. Proportionality restrains not only excessive leniency but also punishment whose incremental severity no longer serves a rational penal purpose.
13. A further remand would be particularly barren. The remand of 11.11.2021 was confined to sentence; guilt was never reopened. The Special Court has already performed that exercise, rightly or wrongly in the degree of elaboration, and has released the respondent after awarding the period undergone. Sending the case back yet again would create a third sentencing round, revive a twelve-year-old exercise at trial level, and expose the respondent to renewed jeopardy of custody without any new evidentiary inquiry capable of improving the reliability of the result. Procedure is an instrument of justice; when repetition offers no curative advantage, it becomes ritual rather than remedy.
14. Nor is direct enhancement by this Court warranted. Enhancement after such a lapse carries consequences qualitatively different from correction made promptly after conviction. The Court must weigh the respondent's settled expectation of finality, though not treating it as an absolute right, against the public benefit of additional imprisonment. On this record, the latter is speculative and slight; the former is immediate and severe. The balance therefore tilts against interference.
15. It is necessary to add that mitigation is cumulative. A subordinate Court should neither recite stock expressions including 'young age', 'first offender', or 'guilty plea', as talismans nor reject them merely because each, standing alone, may appear insufficient. It must identify the circumstance, connect it to a recognized sentencing objective, test whether the assertion is borne out by the record, consider aggravation, and then explain why the combined balance justifies the sentence. A reasoned departure from a benchmark is lawful; an unexplained departure is vulnerable. Conversely, an appellate or revisional Court should not order a remand merely to obtain more elegant reasons where the record

itself conclusively demonstrates that no useful or just consequence can follow.

16. For future guidance, sentencing Courts dealing with narcotics offences should ordinarily record: (i) the precise penal provision and applicable sentencing range on the date of offence; (ii) the nature, quantity, and role attributed to the offender; (iii) aggravating features, including organized activity, commercial motive, recidivism, use of vulnerable persons, or attempted international transportation; (iv) mitigating features established by the record, including age, antecedents, plea, cooperation, actual custody, medical vulnerability, and post-offence conduct; (v) the object served by the chosen sentence, punishment, deterrence, incapacitation, or rehabilitation; (vi) the operation of section 382-B, Cr.P.C.; and (vii) any departure from the governing benchmark with case-specific reasons. Where a case returns on remand, the Court must faithfully observe the scope of the remand and state what has occurred during the intervening period.
17. Revisional Courts, correspondingly, should ask four questions before disturbing a completed sentence: Is the sentence illegal or merely debatable? Is the alleged error material enough to have caused a failure of justice? What lawful and practically useful relief remains available? Would interference, in the complete procedural history, advance a legitimate penal aim proportionately? A negative answer to the latter questions may justify refusal of relief even where the original reasoning could have been more fully expressed.
18. Applying those principles, the sentence under challenge cannot now be characterized as producing such a failure of justice as demands revisional correction. The peculiar mode of recovery and proposed foreign travel are undoubtedly aggravating; they were not overlooked. Yet the quantity remained 549 grams, the respondent accepted guilt, the original order recognized special personal circumstances, the appellate remand expressly left room for mitigation, the respondent faced a second round and renewed custody, and an extraordinary period has since elapsed without any subsequent criminal conduct being placed before this Court. The mitigating force of the whole is greater than the sum of its parts.
19. Criminal justice loses moral authority when it confuses severity with fidelity to law. The Court's duty is neither to indulge an offender nor to satisfy an abstract appetite for punishment; it is to impose, or review, a consequence

that remains fair, intelligible, and useful. In the exceptional history of this case, further imprisonment or another remand would punish delay rather than crime and would serve no proportionate purpose of the prosecution.

20. Consequently, Criminal Revision Application is dismissed in *limine*. The judgment dated 27.09.2024, to the extent challenged, is maintained.

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