



# HIGH COURT OF SINDH

## Case Law Review



## Fortnightly Bench Update



**Published by:**  
**Legal Research Cell**  
High Court of Sindh

**Volume 1 | Issue VI | 16-June-2025 to 30-June-2025**



**FORTNIGHTLY BENCH UPDATE**

**(16-06-2025 to 30-06-2025)**

An Overview of Recent Judgments of the Supreme Court of Pakistan, Sindh High Court, and Lahore High Court, Latest Legislative Amendments and Important Articles, Compiled and Published by the Legal Research Cell, High Court of Sindh, Karachi

NOTABLE JUDGMENTS

Sr. No.	Court	Subject	Area of Law	Page
01.	Supreme Court of Pakistan	Determination of whether cash dower (column 13) and property dower (column 16) in a certified Nikahnama are separate or linked obligations; whether the Nikahnama should be interpreted based on column headings or the actual intent of the parties; whether a certified Nikahnama carries more legal weight than a tampered copy; whether ambiguities in the Nikahnama should be interpreted in favor of the bride; and whether immovable property given as dower becomes the wife's legal ownership upon execution of the Nikahnama.	Family Law	05
02.	Sindh High Court	Interpretation and application of Rules 7(2)(ii) and 10 of the Drug Pricing Policy, 2018 regarding classification of the petitioner's pharmaceutical products as "lower priced drugs," entitlement to a 10% annual price increase, and the legal effect of DRAP's failure to decide within the stipulated time, despite the products exceeding the notified price thresholds and the Ministry's delay in updating them.	Civil Law	06
03.		Recovery of charas from vehicle; Credibility of police witnesses without private mashir; Compliance with custody and transmission protocols of case property; Admissibility and sufficiency of Chemical Examiner's report under Rule 6 of 2001 Rules; Burden of proof under section 29 of CNSA, 1997 and effect of minor contradictions in prosecution evidence.	Criminal Law	08
04.		Maintainability of the appeal in absence of the decree initially filed with the memo of appeal, and determination of ownership of properties registered in the deceased's name, claiming they were held as benami by the respondents, affecting the appellant's entitlement to inheritance as a legal heir.	Civil Law	09

05.	Regularization claim post-training under Emerging Leadership Program; No statutory rules or legal obligation to offer permanent appointment; Scope of writ jurisdiction against government-owned companies; Applicability of master-servant doctrine in absence of statutory framework; Reaffirmation of settled law denying regularization without legal or policy basis.	Service Law	11
06.	Scope of admissibility of unverified USB audio in kidnapping for ransom case; Legal worth of retracted confession without corroboration; Failure to prove recovery and identification of dead body beyond doubt; Improper invocation of ATA, 1997 without establishing intent to create public fear; Effect of non-examination of key witnesses and material contradictions on prosecution's case.	Criminal Law	12
07.	Pre-arrest bail in narcotics case involving 2000g charas; Effect of quantity under prohibitory clause of Section 497 Cr.P.C.; Non-compliance with Section 103 Cr.P.C. and non-recording of recovery under Section 17(2) CNSA; Legal weight of absence of video recording; Role of societal harm and public interest in bail refusal.	Criminal Law	14
08.	Claim for regularization from initial contractual appointment date; Scope of retrospective regularization under service law; Non-existence of legal or policy framework allowing backdated benefits; Supreme Court precedent affirming prospective effect of regularization orders.	Service Law	15
09.	Scope of ex-officio Justice of Peace's discretion under Sections 22-A & B Cr.P.C.; Effect of prior enmity and indirect threat on registration of FIR; Standard for determining cognizable offence; Abuse of process and duty to prevent misuse of criminal law.	Criminal Law	16
10.	Legality of NAB's prosecution of its own ex-prosecutor; scope of Section 36 indemnity, validity of withdrawing a Section 9(c) closure, bar on successive investigations without fresh material, and mens rea requirement under Section 9(a)(vi).	Criminal Law	17

11.	Lahore High Court	The admissibility and procedural legality of video link evidence in criminal trials under Pakistani and comparative jurisprudence. The competency of a proclaimed offender to testify in a case where they are not the accused but a key witness.	Criminal Law	20
12.	Peshawar High Court	The High Court's power to quash an FIR under Article 199 and Section 561-A Cr.P.C. is limited to rare cases. A parallel civil dispute does not prevent criminal proceedings under Section 489-F PPC. A dishonored cheque, even if given as security, can still attract Section 489-F.	Constitutional Law	21

	<b>SELECTED ARTICLES</b>			
13.	<b>Analyzing the Implementation of the Sindh Control of Narcotic Substances Act, 2024: Challenges and Remedies</b> <b>By: Qambar Ali Jamali</b> <b>Civil Judge &amp; Judicial Magistrate, Dadu</b>			23
14.	<b>Artificial Intelligence for Good: A Case for Access to Justice</b> <b>By: Angela Gitahi</b> <b>McGill University</b>			28
	<b>LATEST LEGISLATION/AMENDMENTS</b>			
15.	<b>The Sindh Center for Excellence on Countering Violent Extremism Bill, 2025</b>			28
16.	<b>The Sindh Explosives (Repeal) Act, 2024</b>			28

## SUPREME COURT OF PAKISTAN

**1. Supreme Court of Pakistan**  
**Mst. Fakhra Jabeen v. Wasif Ali and another**  
**Civil Petition Nos. 768 and 827 of 2022**

**Present:** **Mr. Justice Syed Mansoor Ali Shah**  
**Mr. Justice Athar Minallah**  
**Mr. Justice Aqeel Ahmed Abbasi**

**Source:** **[https://www.supremecourt.gov.pk/downloads\\_judgements/c.p. 768 2022.pdf](https://www.supremecourt.gov.pk/downloads_judgements/c.p. 768 2022.pdf)**

**Facts:** Mst. Fakhra Jabeen married Wasif Ali on 5 June 2005. The registered Nikahnama recorded two distinct heads of dower: (i) Rs 500,000 entered in column 13 and (ii) a ten-marla plot precisely identified in column 16, with “on demand” noted in column 14. Matrimonial discord led the wife to sue for recovery of the cash dower, the plot, gold, household articles and maintenance for herself and the couple’s daughter. The trial court, relying on the certified Nikahnama (Ex-P-2) and rejecting an uncertified, tampered copy adduced by the husband, declared the wife owner of the plot, denied the cash dower, allowed maintenance for the child and dismissed the gold claim. On cross-appeals, the appellate court on 4 June 2013 modified the decree: it granted both the cash dower and the plot, enhanced the minor’s maintenance and awarded maintenance to the wife. The husband and his father (shown as co-vendor of the plot) challenged this before the Lahore High Court. A larger Bench of that Court, reading columns 13 and 16 conjunctively, held that the plot became exigible only upon default in paying the Rs 500,000; it therefore relegated the wife first to recover the cash dower. Both sides sought leave in the Supreme Court.

**Issue:** (1) Whether the monetary dower in column 13 and the property dower in column 16 operate independently or contingently, i.e. is the plot payable only if the cash dower remains unpaid? (2) How should ambiguities in a Nikahnama be resolved, and does any presumption favor the groom? (3) Whether the co-vendor (defendant No. 2) is liable despite asserting he had been deleted from column 16 through later overwriting.

**Rule:** A Nikahnama is a civil contract whose clauses are construed to discover the contracting parties’ real intention; headings in the statutory form are aids, not commands. Dower (mahr) may be cash, property or both; absent specific stipulation it is presumed prompt. The wife acquires an immediate proprietary interest in immovable-property dower once the contract is executed. Any ambiguity is

resolved per ordinary contractual principles, including contra proferentem, and in family-law settings with heightened vigilance to the bride's free consent. Statutory presumptions of truth attach to a registered Nikahnama and its certified copies (Muslim Family Laws Ordinance 1961; West Pakistan Rules 1961). Tampered or uncertified copies carry no evidentiary weight.

**Application:** The certified Nikahnama, concurrently validated by all three lower fora, unambiguously records both a cash amount and a plot. Column 14's "on demand" tag converts the cash component to deferred dower, but nothing in the text subordinates the property grant to payment of cash. The phrase "in lieu of the whole or any portion of the dower" in column 16 is descriptive, not conditional; it recognizes that property can satisfy all or part of the overall mahr but does not displace other agreed components unless the spouses expressly say so. Treating column 13 as a "first charge" would, contrary to classical Hanafi doctrine and Pakistani precedent, nullify the very possibility of mixed form mahr. The High Court's premise that Nikahnama entries must lean in favor of the husband because he bears the burden conflicts with the equality of contracting parties, the protective objectives of the 1961 Ordinance and the court's duty to guard against patriarchal imbalance. Once the trial court found, on uncontested evidence, that the husband and his father were privy to the agreement and that the plot description in Ex P 2 was genuine, the wife's proprietary title crystallized upon execution. Subsequent acquisition proceedings affect compensation logistics, not her entitlement. The appellate court therefore applied the correct contractual and Islamic principles; the High Court imported a false conjunctive condition and erred in law.

**Conclusion:** The Supreme Court sets aside the High Court judgment and restores the appellate decree of 4 June 2013: Fakhra Jabeen is entitled simultaneously to Rs 500,000 and absolute ownership of the ten-marla plot, plus the enhanced maintenance decreed below; the father-in-law remains liable regarding the plot.

---

**2. Sindh High Court**  
**M/s Abbott Laboratories Pakistan Ltd v. Federation of Pakistan & others**  
**Constitution Petition No. D-1276 & 1277 of 2025**

**Present:** **Mr. Justice Muhammad Junaid Ghaffar, Honorable Acting Chief Justice**  
**Mr. Justice Muhammad Abdur Rahman**

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MjczNDk1Y2Ztcy1kYzgZ>

*Sindh High Court Citation (2025 SHC KHI 1731)*

**Facts:** M/s. Abbott Laboratories Pakistan Limited filed two petitions against the Drug

Regulatory Authority of Pakistan (DRAP) and others, challenging the rejection of their request for annual increase in Maximum Retail Prices (MRPs) of three pharmaceutical products—Brufen 200mg Tablet, Brufen Suspension, and Thyronorm Tablet. The petitioner argued that these were historically treated as lower priced drugs and qualified for a 10% price increase under Rule 7 of the Drug Pricing Policy, 2018, read with Rule 10. However, DRAP and its Appellate Board treated them as drugs “other than lower priced drugs,” and allowed only a 7% increase (applicable to essential drugs). The petitioner claimed deemed approval under Rule 7(2)(ii) due to DRAP's failure to issue a decision within 30 days.

**Issue:** Whether the petitioner’s drugs were still to be considered “lower priced drugs” within the meaning of Rule 10 of the Drug Pricing Policy, 2018, thereby entitling the petitioner to a 10% CPI-based MRP increase, and whether DRAP’s inaction within 30 days triggered deemed approval under Rule 7(2)(ii) of the Policy?

**Rule:** Rule 7(2) of the Drug Pricing Policy, 2018 allows annual price increases based on the Consumer Price Index (CPI), subject to specific caps: a 7% ceiling for essential drugs (excluding those classified as lower priced), and a 10% ceiling for lower priced drugs and all other categories. Sub-rule (ii) further stipulates that if the Drug Regulatory Authority of Pakistan (DRAP) does not respond within 30 days of receiving a complete and correct price adjustment request, the issuance of the revised price shall be deemed to have taken place. Rule 10(1) defines “lower priced drugs” by prescribing fixed price thresholds for various dosage forms, such as Rs. 3.11 per tablet and Rs. 15.53 per injection. Under Rule 10(2), these thresholds are to be adjusted annually in accordance with the CPI and must be notified by the Ministry of National Health Services.

**Application:** The Court rejected the petitioner’s claim of “deemed issuance” under Rule 7(2)(ii) for two reasons: The price increase calculations submitted by the petitioner were based on the incorrect premise that the subject drugs still fell under the “lower priced drugs” category. Since the actual MRPs of the drugs in question had surpassed the threshold limits under Rule 10(1), they could no longer qualify as lower priced drugs, and thus the basis for 10% increase was incorrect. The Court further held that even though the Ministry failed to enhance the threshold limits under Rule 10(2), such inaction did not entitle the petitioner to unilaterally treat its drugs as lower priced and claim a higher percentage increase. The DRAP’s orders classifying the drugs as no longer lower priced were thus correct. The Court also emphasized that a previous mistaken treatment by DRAP (if any) does not create a legal entitlement for continued misclassification. Lastly, while the petitioner rightly pointed out the Ministry's omission to revise threshold limits under Rule 10(2), the Court declined to grant relief on this issue as it was not part of the specific prayer clause and advised

the petitioner to approach the relevant authority afresh.

**Conclusion:** The High Court dismissed the petitions and upheld DRAP's orders, holding that the subject drugs were not "lower priced drugs" as of July 1, 2024, based on Rule 10(1). Therefore, the petitioner was not entitled to a 10% price increase. The Court clarified that Rule 7(2)(ii) is directory, not mandatory, and cannot be invoked unless calculations strictly comply with pricing thresholds.

---

**3. Sindh High Court  
Syed Ameenullah v. The State  
Criminal Appeal Nos. 537 of 2023**

**Present:** Mr. Justice Zafar Ahmed Rajput, Honorable Senior Puisne Judge  
Ms. Justice Tasneem Sultana

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/MjczMzk5Y2Ztcy1kYzgZ>

*Sindh High Court Citation (2025 SHC KHI 1729)*

**Facts:** On March 15, 2021, appellant Syed Ameenuddin was apprehended by police near Commander Society, Gadap, Karachi, with 57 kilograms of charas (cannabis) recovered from his vehicle, along with cash and two mobile phones. He was arrested and, during interrogation, implicated his co-accused, Sher Ali Khan and Jan Sher, who were later arrested as well. The prosecution presented five witnesses, including the arresting officer, who testified about the recovery and handling of evidence. The appellant denied the charges, claiming false implication and asserting that no incriminating evidence was found, while a defense witness claimed to have seen him being taken from KDA Flats. The Trial Court convicted the appellant, sentencing him to life imprisonment and a fine of Rs. 1 million, granting him the benefit of section 382-B, Cr.P.C. Aggrieved, he has filed the present appeal for setting a side of the Judgment of trial court.

**Issue:** Whether the prosecution has sufficiently proven the appellant Syed Ameenuddin's guilt under sections 6/9-(c) of the Control of Narcotic Substances Act, 1997, considering the evidence presented, including the alleged recovery of narcotics, the credibility of witnesses, and the procedural adherence during investigation and trial?

**Rule:** According to the Control of Narcotic Substances Act, 1997, the prosecution must prove the recovery of narcotic substances beyond reasonable doubt. The burden of proof shifts to the defendant once the prosecution establishes a prima facie case. The testimony of police officers, if credible, can be sufficient for conviction, and

minor discrepancies in witness statements do not necessarily undermine the prosecution's case. Additionally, the protocols for handling and testing narcotics must be adhered to, as outlined in the relevant rules and judicial precedents.

**Application:** The facts reveal that on March 15, 2021, the appellant was apprehended by police with 57 kilograms of charas recovered from his vehicle. The prosecution presented five witnesses, including the arresting officer and mashirs, who consistently testified about the circumstances of the arrest and the recovery of narcotics. Despite the appellant's claims of false implication and procedural irregularities, the court found that the prosecution had established a clear chain of custody and safe transmission of the narcotics to the Chemical Examiner, whose report confirmed the substance as charas. The defense's argument regarding the lack of private witnesses during the search was dismissed, as the law allows reliance on official witnesses unless bias is demonstrated. Furthermore, the minor contradictions in witness testimonies were deemed insufficient to discredit the overall evidence, which remained consistent regarding the recovery and handling of the narcotics

**Conclusion:** Given the reliable and corroborative evidence presented by the prosecution, the court concluded that the appellant's guilt was proven beyond a reasonable doubt. The appeal was dismissed, maintaining the conviction and sentence of life imprisonment and a fine imposed on the appellant. The judgment did not exhibit any legal infirmities warranting appellate intervention, affirming the trial court's findings and the integrity of the prosecution's case.

---

**4. Sindh High Court  
Raja Saqib Khan v. Raja Sabri Khan & another  
High Court Appeal No. D-318 of 2017**

**Present:** Mr. Justice Muhammad Iqbal Kalhoro  
Mr. Justice Muhammad Osman Ali Hadi

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc0NDgyY2Ztcy1kYzgZ>

*Sindh High Court Citation (2025 SHC KHI 1790, 2025 SHC KHI 1792)*

**Facts:** The appellant, Raja Saqib Khan, filed this appeal against a judgment and decree passed in a suit for declaration, possession, partition, and mesne profits regarding the estate of his deceased father, Lt. Col. Raja Allahdad Khan. He claimed entitlement over three key immovable properties: (1) House No. 53, Khayaban-e-Mujahid, DHA Karachi; (2) Plot No. 12-C, Muslim Commercial, DHA Phase 6, Karachi; and (3) Residential Plot No. 116A, Phase-I, Veteran's Society, Rawalpindi. These properties were registered in the deceased's name. However, the

respondents, his siblings asserted that these properties were benami holdings and the actual ownership rested with them, as they allegedly funded the purchases. The learned Single Judge accepted the benami plea and dismissed the appellant's claim, declaring the properties to belong to the respondents. The appeal also raised a technical objection regarding delay in filing the decree with the appeal, which the respondents argued rendered it time barred.

**Issue:** Whether the appeal was maintainable despite the initial non-filing of the decree with the memo of appeal? Whether the properties registered in the name of the deceased could be held to belong to the respondents as benami transactions, disinheriting the appellant of his share as a legal heir?

**Rule:** Under Order XLI Rule 1 CPC and case law (e.g., Baseer Ahmed Siddiqui 1988 SCMR 892), while ordinarily non-filing of a decree with an appeal is fatal, courts may condone the omission where sufficient cause is shown. Under Muhammadan Law, succession opens immediately upon death and property vests automatically in the legal heirs. A benami claim must meet the legal criteria laid down in Abdul Majeed's case (2005 SCMR 577), including: source of consideration, custody of title documents, possession, and motive. A will (even in the form of an affidavit) cannot override Quranic shares of legal heirs under Muhammadan Law. Affidavits not tested by cross-examination cannot be relied upon for establishing substantive ownership rights under QSO 1984. A diary or other unregistered, unsigned private documents cannot serve as legal proof of benami ownership under the Qanun-e-Shahadat Order, 1984.

**Application:** The Court found that the decree was not initially filed due to it not having been prepared at the time of filing the appeal. The appellant applied for its copy timely and pursued its issuance diligently. The Court noted prior orders had condoned the delay and held that the appeal was maintainable. On merits, the Court found that all disputed properties stood in the name of the deceased at the time of his death in 1994. The benami claims of the respondents rested largely on an unsubstantiated diary, an affidavit of the deceased's widow (who was never cross-examined), vague and contradictory affidavits, and inconsistent oral claims. The Court ruled that none of the established criteria to prove benami ownership were met: no money trail was proved, no registered instruments were presented, and no admissions by the deceased existed. The affidavit of the mother, being testamentary in nature and made after death, could not override the mandatory Islamic inheritance rules. The Court also emphasized that possession or mere oral assertions do not displace title held in the name of the deceased.

**Conclusion:** The High Court allowed the appeal; set aside the impugned judgment and decree to

---

the extent they declared the three properties as benami. It held that the properties formed part of the estate of the deceased, Lt. Col. Raja Allahdad Khan, and must be divided among the legal heirs (appellant and respondents) according to Shariah law.

---

**5. Sindh High Court**  
**Mehtab Ali v. Federation of Pakistan and others**  
**Constitution Petition No. D-2750 of 2021**

**Present:** **Mr. Justice Muhammad Karim Khan Agha**  
**Mr. Justice Adnan-ul-Karim Memon**

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc0MTk1Y2Ztcv1kYzgZ>

*Sindh High Court Citation (2025 SHC KHI 1752)*

**Facts:** The petitioner, Mehtab Ali, was enrolled in the *Emerging Leadership Program (ELP)* initiated by Sui Southern Gas Company (SSGC), a public sector entity. He completed the two-year training program from January 17, 2018, to January 16, 2020, with high performance. He was, however, not offered permanent employment after the program ended. The petitioner contended that his exclusion from regularization, especially when a prior batch of trainees had been regularized, amounted to discrimination. He alleged that the denial was arbitrary, in violation of Article 25 of the Constitution, and prayed for a declaration that SSGC be directed to regularize him like similarly placed trainees. The respondents, particularly SSGC, argued that ELP was only a training program without any guarantee of regular employment. The terms and conditions accepted by the petitioner made it clear that the ELP did not ensure future employment. The company emphasized that regularization decisions depend on multiple factors including company needs, suitability of the candidate, and performance evaluations beyond training scores.

**Issue:** Whether the petitioner, having completed the Emerging Leadership Program (ELP) of SSGC, is entitled to regularization of service under Article 199 of the Constitution on the ground of discrimination and legitimate expectation.

**Rule:** The following legal principles were reaffirmed:

**Pakistan Electric Power Company v. Syed Salahuddin (2022 SCMR 991):** Constitutional petitions are not maintainable against entities without statutory rules; employment is governed by principles of “master and servant.”

**Vice Chancellor Agriculture University v. Muhammad Shafiq (2024 SCMR 527):** Contractual employees have no right to regularization unless there is a clear statutory or policy foundation.

**Mohsin Raza Gondal v. Sardar Mehmood (2025 SCMR 104):** Regularization requires a documented legal framework with transparent selection criteria and assessments based on merit and suitability.

**Muhammad Suleman v. Chief Secretary KP (2023 SCMR 1932):** Appointments without competitive and transparent procedures are void; regularization cannot arise from flawed or informal recruitment.

**Application:** The Court carefully examined the ELP's structure, contractual terms, and conduct of the parties. It noted that the petitioner had explicitly accepted terms confirming that the training did not create a right to future employment. The company exercised its discretion within the contractual bounds, and the program concluded automatically after two years. No violation of constitutional protections was found. While the petitioner compared himself with the earlier batch of 75 engineers, the record clarified that not all from that batch were regularized. The Court stressed that permanent employment in public entities must follow legal and transparent processes backed by law or official policy. The petitioner's claim was premised on expectation rather than any enforceable legal right. Furthermore, as SSGC has no statutory rules of service and functions as a non-statutory public sector corporation, the relationship between the parties falls within the realm of contract law, not public law. Therefore, writ jurisdiction under Article 199 could not be invoked to enforce purely contractual claims.

**Conclusion:** The High Court of Sindh dismissed the petition, holding that the petitioner failed to establish any enforceable legal right to regularization. It was concluded that there existed no statutory rules or legal policy obligating SSGC to regularize trainees under the ELP. The claim was thus devoid of merit.

---

**6. Sindh High Court  
Mehboob Akhtar & another v. The State  
Special Anti-Terrorism Appeals 3/2023, 04/2023, Confirmation Case 01/2023**

**Present:** Mr. Justice Omar Sial  
Mr. Justice Muhammad Hassan (Akber)

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc0NDk0Y2Ztcy1kYzgZ>

*Sindh High Court Citation (2025 SHC KHI 1793, 2025 SHC KHI 1794)*

**Facts:** Aziz Akhtar disappeared on 03.10.2020 after leaving for work. Her husband lodged an FIR after losing contact. Months later, Abbas Bangash was arrested based on a tipoff and allegedly led police to a well on 10.04.2021, from where her decomposed body was recovered. The prosecution produced a USB recording of Bangash demanding ransom, claimed he confessed under section 164 Cr.P.C., and tied both Bangash and Major Mehboob to the murder through circumstantial evidence. The Anti-Terrorism Court convicted both appellants under sections 365-A, 302, 201, and 465 PPC, sentencing them to death. The appellants challenged the convictions before the High Court.

**Issue:** Whether the prosecution successfully proved the offences of kidnapping for ransom and murder beyond reasonable doubt, and whether the Anti-Terrorism Act, 1997 (ATA) was properly invoked on the facts of the case.

**Rule:** ATA Invocation Requires Substantive Proof of Terrorism: Inclusion of an offence in the ATA Schedule is not conclusive; prosecution must prove the specific mens rea and public fear element, as elaborated in PLD 2020 SC 61 (Ghulam Hussain v. The State).

Admissibility of Electronic Evidence: As per PLD 2019 SC 675 (Ishtiaq Ahmed Mirza v. Federation), audio/video recordings are admissible only upon strict proof of authenticity, chain of custody, voice identification, and forensic validation.

Retracted Confession: A retracted judicial confession under Section 164 Cr.P.C. is insufficient for conviction without strong corroboration (Qanun-e-Shahadat Order, Article 43).

Benefit of Doubt: Where the prosecution's case is marred by inconsistencies, missing witnesses, or poor investigation, the benefit of doubt must go to the accused.

Terrorism Charges Should Not Be Liberally Applied: The Court warned against overuse of ATA charges, stating that it damages Pakistan's legal credibility and misrepresents crime statistics internationally.

**Application:** The prosecution's case rested on weak, uncorroborated evidence. The USB recording allegedly capturing a ransom demand was neither sent for forensic analysis nor produced by its maker, failing Ishtiaq Mirza safeguards. The confessional statement by Bangash under section 164 Cr.P.C. was made immediately after police custody, later retracted, and appeared to be extracted under inducement, thus unreliable without corroboration. The discovery of the dead body lacked credibility: Bangash had been in judicial custody, and witnesses differed on the condition and identification of the corpse. Key witnesses such as the deceased's last contact (Rubina), Bangash's sister (Asma Batool), and the farmhouse residents were not examined. The mobile data record failed to place either appellant at the

crime scene at relevant times. Furthermore, the link between the act and public terror was not proved, making the application of the ATA unwarranted per PLD 2020 SC 61. The High Court noted that "labeling every heinous offence as terrorism" distorts justice and emphasized the importance of evidentiary integrity in capital cases.

**Conclusion:** The prosecution failed to prove the case beyond a reasonable doubt. The evidence was inconsistent, inadmissible, or insufficient. The appellants were acquitted.

---

**7. Sindh High Court  
Ghulam Hussain and others v. State  
Constitutional Petition No. D- 898 of 2025**

**Present:** Mr. Justice Abdul Mobeen Lakho  
Ms. Justice Sana Akram Minhas

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc0MzMxY2Ztcy1kYzgZ>

*Sindh High Court Citation (2025 SHC HYD 1778)*

**Facts:** Ghulam Hussain was arrested near Ibrahim Shah Dargah, Tando Adam, with 2000 grams of charas allegedly recovered from him, leading to registration of FIR No. 73 of 2025 under Section 9(i)(3)(c) of the CNSA. His bail plea was dismissed by the trial court under Section 35 of the Sindh CNSA, 2024. In his constitutional petition seeking post-arrest bail, he claimed false implication due to enmity with a landlord, challenged the credibility of recovery proceedings for lacking independent mashirs and video recording, pointed out that only 40 grams of the recovered substance were sent for chemical analysis, and highlighted procedural violations under Section 103 Cr.P.C. and Sections 21 & 22 of the CNSA.

**Issue:** Whether the petitioner, Ghulam Hussain, is entitled to post-arrest bail in a narcotics case involving recovery of 2000 grams of charas, in light of procedural irregularities and alleged mala fide intent by the complainant party.

**Rule:** The case falls under Section 9(c) of the CNSA, 1997, attracting the prohibitory clause of Section 497(1) Cr.P.C. due to recovery of 2000 grams of charas. The bail was earlier refused under Section 35 of the Sindh CNSA, 2024. Procedural rules invoked include Section 17(2), 21, and 22 of the CNSA and Section 103 Cr.P.C., concerning video recording and presence of private mashirs during recovery. is treated as a fresh appointment into the permanent service stream.

**Application:** The petitioner argued that the recovery was vitiated due to absence of video

recording under Section 17(2) CNSA, non-inclusion of private mashirs in violation of Section 103 Cr.P.C., and failure to send the full quantity for chemical analysis. The Court, however, held that Section 17(2) is directory, intended to enhance transparency but not mandatory, and that absence of video recording does not render the recovery invalid where other credible evidence exists. It noted practical challenges in implementing video recording—such as lack of official equipment and evidentiary risks with personal devices—and emphasized that such procedural lapses do not override a positive chemical report, arrest at the scene, and absence of mala fide on record. Thus, a tentative assessment showed sufficient material connecting the petitioner to the offence, displacing his claim of false implication.

**Conclusion:** The High Court dismissed the constitutional petition for post-arrest bail, finding that the recovery of a substantial quantity of narcotics, supported by a positive chemical report and absence of mala fide, established a strong prima facie connection between the petitioner and the alleged offence under Section 9(c) of the CNSA. The Court's observations on the non-mandatory nature of video recording and the practical constraints faced by law enforcement serve as interpretive guidance for similar cases in the future.

---

**8. Sindh High Court  
Ghulam Mustafa and others v. Province of Sindh and others  
Constitution Petition No. D-1614 of 2019**

**Present:** Mr. Justice Zulfiqar Ali Sangi.  
Mr. Justice Abdul Hamid Bhurgri

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc0NDc2Y2Ztcy1kYzgZ>

*Sindh High Court Citation (2025 SHC SUK 1788)*

**Facts:** The petitioners, employed on contract since 2007 by the Municipal Committee Rohri, filed this petition seeking regularization of their services from the date of initial appointment rather than from 01.10.2018, the date of the formal regularization order claiming entitlement to seniority and service benefits. They contend that their continuous service and prior court directions warrant retrospective effect, while the respondents maintain that regularization can only operate prospectively under law.

**Issue:** Whether the petitioners, who were initially appointed on contract by the Municipal Committee Rohri, are entitled to have their services regularized from the dates of their initial appointments with all consequential benefits instead of from the date of the formal regularization order dated 01.10.2018?

**Rule:** Regularization of contractual employees under Pakistani service jurisprudence is governed by statutory frameworks such as the Sindh (Regularization of Ad-hoc and Contract Employees) Act, 2013 and related policy decisions. The Supreme Court of Pakistan has held in *Province of Punjab v. Dr. Javed Iqbal* (2022 SCMR 897) and *Vice Chancellor Agriculture University Peshawar v. Muhammad Shafiq* (2024 SCMR 527) that regularization takes effect prospectively unless a law, policy, or order provides otherwise. Contractual employment constitutes a distinct category, and regularization is treated as a fresh appointment into the permanent service stream.

**Application:** The petitioners were hired on a contractual basis by the competent authority of T.M.A. Rohri and served continuously since 2007. Although they had previously approached the Court and were eventually regularized on 01.10.2018 following departmental scrutiny, they now seek regularization from the original dates of appointment. The respondents argued that such retrospective effect is neither sanctioned by law nor supported by the terms of appointment, which explicitly stated the contractual and terminable nature of the employment. The Scrutiny Committee and Local Government Department both confirmed that regularization takes effect from the date of the order, not earlier. The Court found no statutory provision or policy that would justify granting retrospective regularization or back benefits and relied on binding precedent from the Supreme Court.

**Conclusion:** The Court found no legal basis to support the petitioners' claim for regularization from the date of initial appointment. Since their services were regularized through a formal order dated 01.10.2018 after departmental scrutiny, their demand for earlier effect and consequential benefits was not maintainable. Accordingly, the petition was dismissed.

---

**9. Sindh High Court**  
**Sher Bahadur Khan Khattak v. SSP South & others**  
**Criminal Miscellaneous Application No. S-274 of 2025**

**Present:** Mr. Justice Muhammad Hasan (Akber)

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc0NTA2Y2Ztcy1kYzgZ>

*Sindh High Court Citation (2025 SHC KHI 1797, 2025 SHC KHI 1799)*

**Facts:** Sher Bahadur Khan Khattak filed a Criminal Miscellaneous Application under Section 561-A Cr.P.C., challenging the dismissal of his earlier application under Sections 22-A and 22-B Cr.P.C. by the Ex-officio Justice of Peace (Additional Sessions Judge-IX, Karachi South). He had sought registration of an FIR against

retired military officers and others, alleging that he was indirectly threatened through a message conveyed via a third party (Col. Retd. Farooq Ashraf) in relation to a prior criminal conviction and a pending civil suit. The learned Justice of Peace, upon considering the record including police reports, previous enmity, pending litigation, and lack of direct interaction or corroborative evidence, had dismissed the plea for registration of FIR while also directing provision of protection to the applicant.

**Issue:** Whether the learned Ex-officio Justice of Peace acted unlawfully or failed to exercise jurisdiction properly in rejecting the request to order registration of FIR under Sections 22-A and B Cr.P.C., and whether the High Court should exercise its inherent jurisdiction under Section 561-A Cr.P.C. to intervene?

**Rule:** Under Section 22-A(6) Cr.P.C., the Justice of Peace has discretionary power to issue directions for FIR registration and is not bound to do so mechanically. Courts must be cautious to prevent misuse of the criminal process and avoid entertaining vexatious or mala fide applications. Furthermore, Section 561-A Cr.P.C. permits the High Court to intervene only to prevent abuse of process or to secure the ends of justice.

**Application:** The High Court observed that the Justice of Peace had appropriately evaluated the circumstances including previous enmity, ongoing criminal and civil proceedings, and absence of direct threat or credible evidence. The message was allegedly conveyed through a third party who was not even nominated as an accused. The proposed accused were not shown to have made any direct threat, and no witnesses were available. The Court found no arbitrariness or mechanical exercise of discretion by the Justice of Peace. On the contrary, the Justice of Peace exercised restraint in light of possible misuse of law, applied binding precedents, and also ensured the applicant's safety by ordering protection

**Conclusion:** The High Court dismissed the application, holding that no cognizable offence was made out and that the Justice of Peace had properly exercised discretion. The application lacked merit and did not warrant interference under Section 561-A Cr.P.C.

---

**10. Sindh High Court  
Hussain Bux Baloch v. National Accountability Bureau and another  
Criminal Accountability Appeal No.01 of 2018**

**Present:** Mr. Justice Omar Sial  
Mr. Justice Muhammad Hasan (Akber)

**Source:** <https://caselaw.shc.gov.pk/caselaw/view-file/Mjc0NTA0Y2Ztcy1kYzgZ>

*Sindh High Court Citation (2025 SHC KHI 1795)*

**Facts:** The case involves Hussain Bux Baloch, a legal consultant/prosecutor in the National Accountability Bureau (NAB), who was convicted by the Accountability Court-II, Sindh Karachi, for failing to apply for Certified True Copies (CTC) of judgments in several accountability references. He was sentenced to seven years of rigorous imprisonment and fined Rs. 28,87,60,000. The prosecution claimed that actions of the accused caused significant financial loss to the state due to his dishonest omission to apply for CTCs. The appellant contended that he is entitled to Indemnity u/s 36 of the Ordinance; he was not a prosecutor and not responsible to obtain CTC; that on the relevant dates he was out of the country or was busy before other courts; that withdrawal of application for closure of investigation under section 9(c) of the National Accountability Ordinance 1999 (Ordinance) was invalid; and that the 4<sup>th</sup> Investigation in the same matter was also invalid.

**Issue:** Whether the appellant was entitled to Indemnity u/s 36 of the Ordinance; whether he was a prosecutor and responsible to obtain CTC; whether withdrawal of application by NAB under section 9(c) of the National Accountability Ordinance 1999 was valid? Whether 4<sup>th</sup> Re-Investigation in the matter was valid; whether appellant's actions constituted mens rea under section 9(a)(vi) of the Ordinance; whether directions of the Supreme Court dated 29.01.2011 were complied with in letter and spirit; whether the prosecution established mens rea and dishonesty beyond reasonable doubt?

**Rule:** Under section 9(a)(vi) of the National Accountability Ordinance, 1999, a public office holder can be prosecuted for misuse of authority if their actions are proven to be dishonest or malicious. The Supreme Court has held that statutory indemnity is intended to empower and enable the officials to perform their duties honestly, effectively, responsibly and without fear of vexatious litigation which helps in promoting good governance and therefore a prima facie presumption of good faith is attached with official functions, but it does not shield those acts which are done dishonestly, maliciously, illegally or beyond the authority vested by law. That NAB's SOP encapsulates detailed guidelines, modern and robust investigation techniques based on scientific formulas, best practices, collective wisdom and application of judicial mind for conducting investigation and its closure. SOP is binding in its operational matters which provides that principles governing section 24-A of the General Clauses Act are to be followed for decisions in NAB. The same collective process through which an application under section 9 (c) of the Ordinance is decided, should also be followed to reverse such a decision. The Supreme Court

in ‘Ali Muhammad v. The State’ PLD 2010 SC 623; ‘Abdul Majeed Zafar v. Governor Punjab’ 2007 SCMR 330 has highlighted the role of accountability Judge in deciding application under section 9(c) of the Ordinance. That repeated investigations in the same matter do not help Courts in Administration of Justice and are discouraged by the Supreme Court in ‘Chairman, NAB and another v. Muhammad Irshad Khan’ 2008 SCMR 1012, ‘Bahadur Khan v. Muhammad Azam and 2 others’ 2006 SCMR 373, ‘Riaz Hussain and others v. The State’ 1986 SCMR 1934. That ratio decided by the Supreme Court in ‘Mansur-ul-Haque v. Government of Pakistan’ PLD 2008 SC 166; ‘Khan Asfandiyar Wali v. Federation of Pakistan’ PLD 2001 SC 607 that mere procedural irregularities in a transaction would not be sufficient to constitute an offence under section 9 of the Ordinance, but a distinction must be drawn between procedural irregularities and criminal intent. That to establish criminal negligence against a professional, the prosecution must establish mens rea, the dishonest intent to commit a crime as held in ‘Malay Kumar Ganguly vs. Sukumar Mukherjee’ (2009) 9 SCC 221, ‘Dr. Suresh Gupta vs. Government of NCT of Delhi & another’ AIR (2004) SC 4091 and ‘P.B. Desai vs. State of Maharashtra’ AIR (2014) SC 795. Lastly, the prosecution must prove its case beyond reasonable doubt (‘State v. Lt. Gen. (Retd.) Sabeh Qamruzzaman’ 2017 P.Cr.LJ N 250; ‘National Accountability Bureau v. Khalid Ahmad Khan Kharral’ 2013 MLD 849) and even if a single doubt arises in the prosecution case, the accused is entitled to its benefit, as held by Supreme Court in ‘Tariq Pervez v. The State’ 1995 SCMR 1345; ‘Muhammad Akram v. The State’ 2009 SCMR 230.

**Application:** Applying the above rules to the facts of the present case, the court examined the evidence presented by both parties and found that the prosecution failed to demonstrate that the appellant acted with dishonesty or mala fide intent. Furthermore, the three investigations preceding the reference did not recommend charges against the accused, indicating lack of sufficient grounds for prosecution. The court also highlighted material irregularities in the withdrawal of the application for closure of investigation under section 9(c) of the Ordinance, which was not in consonance with the established legal framework. The prosecution's failure to prepare seizure memo, call key witnesses, produce material documents, conduct improper investigation and lack of evidence of collusion or financial gain against the accused, further weakened prosecution case. The appellant's defense was further bolstered by the fact that at critical times, accused was not present in court or was and was out of the country.

**Conclusion:** The appellate court concluded that the prosecution did not meet the burden of proof required to establish the appellant's guilt beyond a reasonable doubt. Consequently, the appeal was allowed, the conviction was overturned, and the appellant was acquitted of all charges. The judgment emphasized the importance of adhering to

legal standards and protecting the rights of the accused, reinforcing the principle that procedural fairness is paramount in criminal proceedings.

---

**11. Lahore High Court**  
**Nosheen Ali Nasir v. A.S.J. Daska Sialkot**  
**Cr. Misc No. 46048/M/24**

**Present:** Mr. Justice Tariq Saleem Sheikh

**Source:** <https://sys.lhc.gov.pk/appjudgments/2025LHC4430.pdf>

*Lahore High Court Citation (2025 LHC 4430)*

**Facts:** Mst. Nosheen Ali Nasir’s brother, Husnain, was shot and paralysed on 28 May 2022 while walking to Daska’s Tehsil Courts. FIR No. 722/2022 (s. 324, 109, 34 PPC) was lodged the same day, placing Respondents 3-7 on trial. Husnain, however, already stood proclaimed-offender in two earlier rival-party FIRs (Nos. 186/2019 & 326/2019, PS Bambanwala). Because treatment has him confined to the United States, Nosheen asked the trial magistrate to take Husnain’s evidence by video link. Both the magistrate (28 Mar 2024) and revisional court (29 May 2024) refused, reasoning that “a fugitive from law loses his normal rights.” Nosheen petitioned the Lahore High Court to overturn those orders.

**Issue:** Whether the testimony of a prosecution witness can be recorded through video link in a criminal trial in Pakistan.  
Whether being a proclaimed offender in other unrelated criminal cases disqualifies a person from testifying as a witness in a different case.

**Rule:** Article 164 Qanun-e-Shahadat Order 1984 (as amended, 2023) lets courts admit evidence obtained “because of modern devices or techniques,” including live video. Article 3 QSO deems every person competent to testify unless specific incapacities (infancy, insanity, perjury, etc.) apply status as absconder/proclaimed offender is not listed. Precedent shows a firm policy against fugitives exploiting the system (Chan Shah PLD 1956 FC 43; Gul Hassan PLD 1969 SC 89), yet also shows the bar is not absolute when a discrete legal right or fair-trial interest is at stake (Ehsan Ullah 2012 SCMR 1137; Tahir Sadiq 2024 SCMR 775). Domestically (Salman Akram Raja 2013 SCMR 203; Khawaja Anwer Majid PLD 2020 SC 635) and comparatively (Praful Desai AIR 2003 SC 2053; Maryland v. Craig 497 US 836 (1990)), courts endorse video evidence where it preserves confrontation and procedural fairness.

**Application:** The High Court first disentangled “fugitive,” “absconder,” and “proclaimed

offender.” A proclamation under s. 87 Cr.P.C. attracts stiff consequences, but only within the very case in which it is made. Article 3 QSO’s competency test is exhaustive; courts cannot graft new disqualifications onto it. Thus Husnain’s proclaimed-offender status in FIRs 186/2019 & 326/2019 cannot, by itself, mute his voice in FIR 722/2022. Next, the Court weighed fairness to the accused. Video link satisfies confrontation where the accused and counsel can see, hear, and cross-examine in real time, and where the court supervises to prevent coaching or evasion. Certified medical records showed Husnain’s paraplegia made international travel impossible; the video option was therefore a necessity, not a convenience. Denying it would punish Nosheen’s prosecution and undermine fact-finding. The magistrate and revisional court, by imposing a blanket “no rights for fugitives” rule, misdirected themselves and stifled a discretion Parliament had expressly granted through Article 164 QSO and allied statutes (PECA 2016 s. 30C; Punjab Witness Protection Act 2018 s. 10).

**Conclusion:** The Lahore High Court held that the trial court and revisional court erred in law by disallowing the recording of Husnain’s testimony via video link on the sole ground of him being a proclaimed offender in other cases. The impugned orders were thus set aside. The trial court was directed to record Husnain’s evidence through video link, ensuring compliance with procedural safeguards.

---

**12. Peshawar High Court**  
**Atta Hussain v. Altaf Gouhar Khan and others**  
**W.P No.1496-M/2023**

**Present:** Mr. Justice Sabitullah Khan

**Source:** <https://www.peshawarhighcourt.gov.pk/PHCCMS/judgments/w.p-1496-M-of-2023.pdf>

**Facts:** The petitioner, Atta Hussain, challenged an order of the Justice of Peace (Additional Sessions Judge, Dir Lower) dated 08.12.2023, whereby an application under Section 22-A Cr.P.C. by Respondent No.1 (Altaf Gauhar) was allowed, and the SHO was directed to register an FIR against the petitioner under Section 489-F PPC. The matter pertained to a cheque issued by the petitioner in the amount of Rs.10,000,000, which was dishonoured due to insufficient funds. The petitioner contended that the cheque was issued as security, no direct transaction existed with Respondent No.1, and that civil litigation was already pending regarding the same subject matter.

**Issue:** Whether the High Court has the jurisdiction under Article 199 of the Constitution and Section 561-A Cr.P.C. to quash an FIR during the stage of investigation?

Whether the existence of a parallel civil dispute bars the registration or continuation of criminal proceedings under Section 489-F PPC? Whether the issuance of a dishonored cheque, allegedly given as security, can constitute a cognizable offence under Section 489-F PPC?

**Rule:** Article 199 of the Constitution of Pakistan confers limited constitutional jurisdiction upon the High Court, primarily to ensure lawful authority and protection of fundamental rights. Section 561-A of the Code of Criminal Procedure provides inherent powers to the High Court to prevent abuse of process and to secure the ends of justice, but these powers are confined to judicial proceedings and cannot be invoked to interfere in police investigations. Under Section 489-F of the Pakistan Penal Code, the dishonour of a cheque issued with dishonest intent to repay a liability or obligation constitutes a cognizable offence. Once such an offence is disclosed, Section 154 Cr.P.C. makes it mandatory for the police to register an FIR. The superior courts have consistently held that FIRs may only be quashed in rare and exceptional circumstances. In *FJA v. Syed Hamid Ali Shah* (PLD 2023 SC 265), the Supreme Court ruled that FIRs or investigations cannot be quashed under Section 561-A Cr.P.C. Similarly, in *Seema Fareed v. State* (2008 SCMR 839), it was affirmed that civil and criminal proceedings may proceed concurrently. In *Col. Shah Sadiq v. Muhammad Ashiq* (2006 SCMR 276), the Court stressed that trials should not be obstructed where a prima facie offence is made out. Reinforcing this view, the Peshawar High Court in *Wrashem Gul* (PLD 2025 Peshawar 36) held that quashing of FIRs is only justified in rare and exceptional cases.

**Application:** The Court found that the dishonored cheque was issued for a specific amount and date from the petitioner's account, thereby disclosing a prima facie offence under Section 489-F PPC. The petitioner's claim of security cheque and civil dispute were held to be factual matters requiring trial and evidence. The civil suit was filed after dishonor of the cheque and appeared to be an afterthought to obstruct criminal liability. No convincing material was provided to prove mala fide or abuse of process. Moreover, both criminal and civil proceedings were held to be distinct and legally permissible to continue simultaneously. The Court reiterated that interference at the investigation stage would amount to obstructing lawful police functions, and the High Court has no jurisdiction to quash an FIR unless the complaint is manifestly false, does not disclose a cognizable offence, or is otherwise legally barred.

**Conclusion:** Petition dismissed for lack of merit

---

## ARTICLE

### **Analyzing the Implementation of the Sindh Control of Narcotic Substances Act, 2024: Challenges and Remedies**

**By: Qambar Ali Jamali**

**Civil Judge & Judicial Magistrate, Dadu, Sindh**

#### **Abstract**

The recent legislation against narcotics substances, controlled substances and psychotropic substances in Sindh has introduced numerous changes to the anti-narcotics legal regime in Sindh. The Sindh Control of Narcotics Act 2024 (**hereinafter to be referred as the Sindh CNS Act, 2024**) is under various challenges in terms of interpretation and implementation in Sindh. These challenges concern fundamental rights, arrests, investigation, and trial of the offenders. These arenas have brought criticism among the stakeholders of the legal system of Sindh. This article highlights the significant features of the Sindh CNS Act, 2024, its implementing framework, and procedural lacunas. This article finds that there are various gaps in narcotics law in terms of the fundamental rights of citizens, procedural loopholes, and jurisdictional issues. Hence, there is an urgent need to bring certain amendments to the Sindh CNS Act, 2024 in order to remove ambiguities and procedural loopholes to make the law dynamic and viable.

#### **Introduction**

The Sindh CNS Act, 2024, was passed by the Provincial Assembly of Sindh on 23rd September 2024 and assented to by the Governor of Sindh on 15th October 2024. It has been published as an Act of the Legislature in Sindh. The preamble of the Sindh CNS Act, 2024 addresses narcotic drugs, psychotropic substances, precursor chemicals, and the control of the production, processing, and trafficking of such drugs and substances in the Province of Sindh<sup>1</sup>. Section 1 of the Sindh CNS Act 2024, stipulates its applicability in the Sindh Province. After the 18th Amendment to the Constitution of Pakistan, 1973, the province of Sindh took steps to enact its own provincial narcotics law. Prior to this enactment, the Control of Narcotics Act, 1997 was in effect. Section 2 of the Sindh CNS Act, 2024 provides important definitions relevant to the Act<sup>2</sup>. Chapter II of the Sindh CNS Act, 2024 describes the offences under the Act. These offences pertain to the cultivation of narcotic plants, production, manufacture, extraction, preparation, possession, offering for sale, selling, purchasing, distributing, and delivering on any terms whatsoever, as well as the transport and dispatch of any narcotic drugs, psychotropic substances, or controlled substances.<sup>3</sup> Section 7 of the Act, refers the prohibition of import, export, or transport of narcotics drugs, psychotropic substances or controlled substances, precursor chemical, with exception to any license, permit or authorization for that purpose which may be required to be obtained under those rules<sup>4</sup>. Section 8 of the Sindh CNS Act, 2024, refers the punishment for offenders who organize, manage, traffic in, or finance the import, transport, manufacturing, or trafficking of, narcotic drugs, psychotropic substances or controlled substances, or use violence or arms for committing or attempting to commit an offence punishable under this Act<sup>5</sup>. Section 9(1) deals with the punishment for narcotic drugs, including bhang, poppy straw, charas, hashish oil or liquid hashish, opium, heroin, morphine, and cocaine. Section 9(2) addresses the punishment for psychotropic substances. Section 9(3) pertains to the punishment for controlled substances.<sup>6</sup> Section 11 deals

<sup>1</sup> Preamble, Sindh Control of Narcotics Substance Act, 2024.

<sup>2</sup> Section 2 of Sindh CNS Act, 2024.

<sup>3</sup> Section 6 of Sindh CNS Act, 2024.

<sup>4</sup> Section 7 of Sindh CNS Act, 2024.

<sup>5</sup> Section 8 of Sindh CNS Act, 2024.

<sup>6</sup> Section 9 of Sindh CNS Act, 2024.

with the prohibition of owning, managing, operating, or controlling any premises, place, equipment, or machinery for the purpose of manufacturing or producing cannabis, cocaine, opium, opium derivatives, narcotic drugs, methamphetamine, psychotropic substances, or controlled substances, except in accordance with the conditions of a license, permit, or pass. Section 13 further states that any contravention of any provision of this Act, or any rule or order made, or any license, permit, or authorization issued thereunder, for which no separate punishment is provided, shall be punishable with imprisonment for a term that may extend to three years and a fine.<sup>7</sup> Chapter III of the same Act deals with searches, arrests, and the investigation of offences<sup>8</sup>. Section 21 punishes the acts of vexatious searches, arrests and detentions for three years with fine of Rs.30 million<sup>9</sup>. Chapter IV of the Act, 2024 deals with the establishment and functions of special courts. Chapter V of the Act deals with inter-provincial coordination and assistance in the prevention of narcotics offences<sup>10</sup>.

### **Ambiguities and Implementation Challenges:**

Before adverting to ambiguities and challenges in terms of the implementation of the Sindh CNS Act, 2024 it is significant to analyze the international legal regime against narcotics substances and drugs. A deep analysis shows that the legal framework against narcotics substances and drugs should be in consonance with human rights. The international legal regime provides guidance for defining substances, offenses, trafficking, rehabilitation, and international cooperation for dealing with the offenses related to narcotics. Article 36(1) (b) of the Single Convention on Narcotic Drugs provides for alternatives to conviction or punishment, or in addition to conviction or punishment, that such abusers shall undergo measures of treatment, education, aftercare, rehabilitation, and social reintegration in conformity<sup>11</sup>. The preamble, as well as Article 20 of the Convention on Psychotropic Substances Act 1972, refers to the early identification, treatment, education, aftercare, rehabilitation, and social reintegration of the persons involved, and shall coordinate their efforts to these ends<sup>12</sup>. Article 3(4) (a) also provides a framework for punishing the offences with proportionality in sentencing and alternative convictions<sup>13</sup>.

### **Concerns regarding Fundamental rights:**

Section 35 of the Act<sup>14</sup> bars the provision of bail under the Sindh CNS Act, 2024. Section 35 reads as under:

**35. (1) notwithstanding anything contained in sections 496 and 497 of the Code, the bail shall not be granted to an accused person charged with an offence under this Act.**

Under ordinary jurisdiction, the law of bail operates on the principles of reasonable grounds to believe in guilt, further inquiry, absence of recovery, hardship due to illness or age, and delays in the conclusion of the trial. Article 9 of the Constitution of 1973 also guarantees the right to liberty, and article 10-A secures the right to a fair trial<sup>15</sup>. From an international law perspective, the bail exclusion also risks violating Pakistan's obligations under the International Covenant on Civil and Political Rights (ICCPR), particularly Article 9(3), which states that pre-trial detention shall not be the general rule<sup>16</sup>. General Comment No. 35 of the UN Human Rights Committee emphasizes that all individuals should have the right to challenge the lawfulness of their detention and that pre-trial

<sup>7</sup> Section 13 of Sindh CNS Act, 2024.

<sup>8</sup> Section 16, 17, 18 of Sindh CNS Act, 2024.

<sup>9</sup> Section 21 of Sindh CNS Act, 2024.

<sup>10</sup> Chapter V of Sindh CNS Act, 2024.

<sup>11</sup> Single Convention on Narcotics Drugs 1961

<sup>12</sup> Convention on Psychotropic Substance Act 1972

<sup>13</sup> United Nations Convention against Illicit traffic in Narcotics and Drugs 1988

<sup>14</sup> Section 35 of Sindh CNS Act, 2024.

<sup>15</sup> Article 9 and 10 of the Constitution of Islamic Republic of Pakistan 1973.

<sup>16</sup> Article 9(3) of International Covenant on Civil and Political Rights.

liberty will be at risk. Although the Control of Narcotics Act 1997 prohibits bail under Section 51 in cases of offences punishable by death.<sup>17</sup> However, after the promulgation of the *ibid* Act, issues arise regarding the curtailment of the liberty of citizens as enshrined under article 9 of the Constitution of 1973, without any consideration of proportionality and the gravity of the offenses. Hence, the Sindh CNS Act, 2024 has ousted the principle of bail, even for women and offenders who are facing illness. Ultimately, the High Court of Sindh grants bail to the accused under its constitutional jurisdiction, as laid down in the case of Khan Asfandiyar Wali case<sup>18</sup>, wherein it has been held that, notwithstanding such an ouster clause, a high court can still exercise its jurisdiction under Article 199 of the Constitution for the grant of bail or otherwise. The same principle has been affirmed by the High Court of Sindh while dealing with the bail applications<sup>19</sup>.

### **Rise of parallel jurisdictions**

Section 27 of the Sindh CNS Act, 2024 deals with the enforcement agency under the Act. It provides for the establishment of Narcotics Control Police Stations, check posts, and checkpoints as required for the efficient functioning of the Narcotics Control Wing and the Excise, Taxation, and Narcotics Control Department. The proviso of Section 27 stipulates that till the establishment of Narcotics Control Police Stations, the existing Excise Police Stations shall perform the functions of Narcotics Control Police Stations.<sup>20</sup> However, the act does not bar the procedure for reporting offences by ordinary police stations of the police department and other agencies. Section 4(S) of the Criminal Procedure Code 1898 deals with the definition of a police station as any post or place declared, generally or specially, by the Provincial Government to be a police station, and includes any local area specified by the Provincial Government in this regard <sup>21</sup>. Section 154 of the Cr.P.C. refers to the reporting of a cognizable offence, generally known as the First Information Report<sup>22</sup>. The police rule 24.1 deals with reporting of the offence by police stations. The chapter XXII of Police Rules deals with police stations concerning the effective working, management, good conduct, and discipline of the local police for the preservation of peace and the prevention and detection of crime. Surprisingly, this statute addresses the establishment of Narcotics Police Stations in addition to the earlier ordinary police stations, Anti-Narcotics Force police stations, and Police Stations of the Excise, Taxation, and Narcotics Control Department. Therefore, the establishment of new Narcotics Police Stations will raise issues of parallel jurisdiction regarding the reporting of offenses in the same territorial jurisdiction, which are yet to be resolved.

### **Investigative paradigm**

After the reporting of the offence, the next stage is the investigation of the offences. For effective investigation, it is indispensable that there should be a dynamic and unambiguous framework for dealing with the offences of narcotics substances. Police Rule 25.1 states that an officer in charge of a police station is empowered by Section 156 of the Criminal Procedure Code to investigate any cognizable offence that occurs within the limits of his jurisdiction<sup>23</sup>. Section 28 of the Act states that the Secretary of the Excise, Taxation & Narcotics Control Department may invest any officer of the Department, Police Establishment, or any officer of a law enforcement agency, or any other officer within their respective jurisdiction with the powers of an officer-in-charge of a police station for the investigation of any offence under this Act. However, it is further stated that the leading department for the effective enforcement of the provisions of the Act is the Excise, Taxation and

<sup>17</sup> Section 51 of Control of Narcotics Substance Act 1997.

<sup>18</sup> PLD 2001 SC 607 (Khan Asfandiyar Wali's case).

<sup>19</sup> Constitutional Petition No.D-937 of 2025

<sup>20</sup> Section 27 of Sindh CNS Act, 2024.

<sup>21</sup> Section 4(p), Criminal Procedure Code, 1898.

<sup>22</sup> Section 154 of Criminal Procedure Code.

<sup>23</sup> 25.1 Of Police Rules 1934.

Narcotics Control Department. This means that, despite the Excise, Taxation and Narcotics Control Department, the Police Establishment or any other agency may be conferred with the powers for the enforcement of the Act<sup>24</sup>. Section 18(b) deals with arrest and detention of accused by “authorized person”<sup>25</sup>. Section 2(c) states that an 'authorized officer' means an officer of the Directorate General (Narcotics Control Wing), not below the rank of Inspector, authorized by the Director or Additional Director; or a police officer or official not below the rank of Sub-Inspector, authorized by the Regional Police Officer<sup>26</sup>. Meaning thereby, it gives rise to an ambiguity regarding whether any unauthorized police official of the police department or other agency can arrest the accused who commits an offence under this Act. Section 33(3) deals with the remand of the accused by a special court comprising a Judicial Magistrate of the First Class. The preamble of the Anti-Narcotics Force Ordinance 1995 provides for the inquiry and investigation of offences relating to narcotics and the trafficking of narcotics substances<sup>27</sup> reported under the Control of Narcotics Substance Act 1997. Therefore, the functioning of the Anti-Narcotics Force in the Sindh Province has again given rise to confusion after the enactment of the Sindh CNS Act, 2024. In addition to this, the Sindh CNS Act, 2024 has repealed the Control of Narcotics Substances Act, 1997, under Section 45 of the Act, which creates issues of jurisdiction for offences requiring international assistance and cooperation that are not specifically addressed under the Sindh CNS Act, 2024. Despite several ambiguities, it is commendable that the Sindh CNS Act, 2024 has affirmed the procurement of digital evidence through video recording, while the arrest proceedings under Section 17(2) of the Act as directed in Zahid Sarfraz Gill versus the State<sup>28</sup>.

### **Trial of the offences**

Section 29 describes that special courts will have exclusive jurisdiction to try the offences notified by the government<sup>29</sup>. Section 30(2) of the Act, further deals with the trial of offences by competent courts in addition to the special courts<sup>30</sup>. Section 2(qq) stipulates that “competent court” means the existing Court of District & Sessions Judge, which has the legal authority to hear and decide a case under the Sindh CNS Act, 2024<sup>31</sup>. The period of completion of trial is mentioned is six months under section 35(2) of the Act<sup>32</sup>. Section 40 of the Act states that this Act shall not affect any provincial law or any other special law dealing with the restriction of the cultivation of cannabis plants, as well as the consumption and trafficking of narcotic drugs and psychotropic substances for offences not provided under this Act. Section 41 of the Act further provides as under;

**41. If an offence punishable under this Act, is also an offence in any other law for the time being in force, nothing in that law shall prevent the offender from being punished under this Act:**

Further, Section 45 of the Sindh CNS Act, 2024 further repeals the provisions of the Control of Narcotics Substances Act, 1997, in the province of Sindh<sup>33</sup>. Hence, this provision creates serious ambiguity about the smooth functioning of the Anti-Narcotics Force 1997 in dealing with the offences under the Control of Narcotics Substances Act 1997. Furthermore, after the enactment of Sindh CNS At, 2024 the international cooperation required for trial of offences committed by drug peddlers from international community is also obstructed due to repeal of Control of Narcotics Act,

<sup>24</sup> Section 28 of Sindh CNS Act, 2024.

<sup>25</sup> Section 18(b) of Sindh CNS Act, 2024.

<sup>26</sup> Section 2 (c) of Sindh CNS Act, 2024.

<sup>27</sup> The Anti-Narcotics Force Ordinance 1995.

<sup>28</sup> Zahid Sarfraz Gill versus the state Criminal Petition No. 1192 of 2023

<sup>29</sup> Section 29 of Sindh CNS Act, 2024.

<sup>30</sup> Section 30(2) of Sindh CNS Act, 2024.

<sup>31</sup> Section 2(qq) of Sindh CNS Act, 2024.

<sup>32</sup> Section 35(2) of Sindh CNS Act, 2024.

<sup>33</sup> Section 45 of Sindh CNS Act, 2024.

1997 in Sindh Province. The High Court of Sindh has settled the precedent that offences allegedly committed after the enforcement of the new law render the prosecution, investigation, and judicial actions against offenders under the Control of Narcotics Act 1997 void<sup>34</sup>.

### **Rehabilitation and Treatment of offenders**

It is astonishing that the Sindh CNS Act, 2024 does not provide a framework for the rehabilitation and treatment of offenders. As the majority of narcotics offenders have health issues arising from psychotropic substances, they need proper rehabilitation and treatment. The Control of Narcotics Substances Act, 1997, provides for the treatment of offenders under section 52 of the Act<sup>35</sup>. However, there is no specific provision for such treatment of offenders, which is the need of the hour

### **Conclusion and Recommendations**

The Sindh CNS Act, 2024 faces various issues of implementation in the judicial system. The ambiguities and procedural hurdles are posing challenges for its enforcement. Hence, there is a dire need to bring certain amendments to make the statute dynamic and effective for the people. The following recommendations are suggested:

- There should be a specified agency for the implementation of the Sindh CNS Act 2024. The roles of the police establishment, the Excise and Narcotics Department, and the Anti-Narcotics Force should be described without any ambiguity for effective enforcement.
  - The Sindh CNS Act, 2024 should be immediately amended to ensure the liberty of citizens and the prevention of arbitrary arrests and pre-trial detentions. Adequate measures should be provided for the rehabilitation and reintegration of drug offenders, aiming at the welfare of mankind.
  - The Special Courts should be established for the trial of offenders without any delay to ensure an expeditious trial and protection of fundamental rights of citizens.
- 

<sup>34</sup> Javed versus the State Criminal Bail Application No. 1004 of 2025

<sup>35</sup> Section 52 of Control of Narcotics Substance Act, 1997

## ARTICLE

### **Artificial Intelligence for Good: A Case for Access to Justice**

**By: Angela Gitahi**

**McGill University**

**[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=5245733](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5245733)**

This dissertation explores the transformative potential of Artificial Intelligence (AI) in improving access to justice, especially for marginalized and underrepresented populations. It argues that AI tools like predictive analytics, legal chatbots, and natural language processing can reduce legal costs, streamline case management, and offer accessible legal guidance. However, it cautions against overreliance on opaque AI systems, highlighting risks such as algorithmic bias, lack of transparency, and threats to due process, as seen in *State v. Loomis*. The paper reviews global legal frameworks, including the EU's GDPR (Article 22), the U.S. Algorithmic Accountability Act 2019, and Kenya's Data Protection Act 2019, to underscore the need for ethical AI governance. The study calls for transparency, human oversight, and interdisciplinary regulation to ensure that AI promotes fairness rather than reinforcing systemic inequalities.

---

## LATEST LEGISLATION/AMENDMENT

**The Sindh Center for Excellence on Countering Violent Extremism Bill, 2025**

**The Sindh Explosives (Repeal) Act, 2024**

Vide Notification No.PAS/LEGIS-B-11/2025- The Sindh Center for Excellence on Countering Violent Extremism Act, 2025 having been passed by the Provincial Assembly of Sindh is hereby published as an Act of the Legislature of Sindh.

Vide Notification No.PAS/LEGIS-B-06/2024- The Sindh Explosives (Repeal) Act, 2024 (Sindh Act No. X of 2025) is hereby published as an Act of the Legislature of Sindh. The Sindh Explosives Act, 2019 (Sindh Act No. XXVIII of 2023) is hereby repealed.

---

#### **Disclaimer**

Due care and caution have been taken in preparing and publishing this bulletin. Where required, text has been moderated, edited and re-arranged. The contents available in this Bulletin are just for Information. Users are advised to explore and consult original text before applying or referring to it. Research Cell shall not be responsible for any loss or damage in any manner arising out of applying or referring the contents of Bulletin.