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ORDER SHEET  
IN THE HIGH COURT OF SINDH, AT KARACHI.

**Crl. Revision Application No.217 of 2012.**

Date	Order with signature of Judge
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For hearing of main case.

**18.03.2022.**

Mr. Jabib Ahmed, Special Prosecutor ANF.  
Mr. Muhammad Iqrar, Advocate along with respondents.  
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**MOHAMMAD KARIM KHAN AGHA, J:-** The respondents Muhammad Rafiq and Imtiaz Ameer were convicted by the Special Court-I (Control of Narcotic Substances), Karachi in Special Case No.37/2012 whereby on a plea of guilty they were sentenced to suffer Rigorous Imprisonment for 10 months with benefit of section 382-B Cr.P.C.

2. Against this sentence the ANF has filed a Criminal Revision Application for enhancement of sentence mainly on the ground that based on the recovery of 1002 grams, the appropriate sentence to be handed down as per Ghulam Murtaza case (PLD 2009 Lahore 362) ought to have been one year and 07 months.

3. The respondents have opposed such enhancement application.

4. The brief facts of the case are that both the respondents were riding motorcycle on 12.03.2012 and based upon spy information they were stopped by an ANF Party and apprehended. After their search recovery of 1002 grams of heroin was recovered. The respondents were arrested and taken to the Police Station where an FIR was lodged.

5. After usual investigation the matter was challaned and the respondents appeared before the trial court whereby they entered a

guilty plea and were sentenced as mentioned above in this judgment.

6. We have gone through the facts of the case and it appears that the respondents were caught red-handed by the ANF Police with 1002 grams of heroin in their possession. That safe custody of the heroin has been proved and that chemical examiner report was positive and as such the prosecution had proved its case beyond reasonable doubt against the respondents.

7. The only issue before us is of sentencing. We note that the recovery was a joint recovery of 1002 grams of heroin and that each of the appellants ought to have been responsible for 501 grams each and sentenced accordingly. According to the sentencing guidelines as laid down in Ghulam Murtaza (supra) case under these circumstances the appellants ought to have been sentenced to 01 year and 07 months imprisonment. We note that in the case of Ghulam Murtaza (supra) if special features/mitigating circumstances exists the courts have discretion to depart from the sentencing guidelines in Ghulam Murtaza's (supra) case. In this case we find the presence of a number of special features/mitigating circumstances which would justify departure from the sentencing guidelines in Ghulam Murtaza's (supra) case. Although the learned Special Prosecutor ANF has opposed any reduction in sentence and seeks enhancement of the sentence, we set out below special features/mitigating circumstances which exists in this case:-

- i) Both the respondents are first time offenders and capable of reformation.
- ii) That both the respondents have served out 10 months in Jail and have been released after serving out the sentence in the impugned judgment and have been at liberty for the last 10 years. During this period they have not committed any further offence and have returned to society being reformed persons.
- iii) That both the respondents have undergone the agony of time and again attending this Court to hear this

revision application with the Sword of Damocles hanging over their heads for over 10 years which has caused them a great deal of mental agony and anxiety.

- iv) That both the respondents have families who are relying on them for their support and both the respondents have now obtained gainful employment.
- v) By pleading guilty the respondents have shown genuine remorse.

8. As such when all these special mitigating features are taken together we find that it would serve no useful purpose either to remand this matter to the trial court or enhance the sentence of the respondents.

9. Thus we hereby based on the above special features mentioned above find no merit in the revision application which is hereby dismissed. The bail bonds of the respondents are discharged.

Muhammad Arif