

IN THE HIGH COURT OF SINDH, KARACHI
Special Criminal Anti-Terrorism Appeal No. 185 of 2023

Before:
Acting Chief Justice Zafar Ahmed Rajput
Justice Miran Muhammad Shah

Appellant : Rehan Masood s/o Yar Muhammad,
through Mr. Saathi M. Ishaque, Advocate.

Respondent : The State, through Mr. Mumtaz Ali Shah,
Assistant Prosecutor General (APG), Sindh.

Date of hearing : 23.09.2025
Date of order : 03.10.2025

JUDGMENT

ZAFAR AHMED RAJPUT, ACJ. - This Spl. Criminal Anti-Terrorism Appeal is directed against the judgment, dated 14.10.2023, passed in Special Case No. 196 of 2021, arising out of FIR No. 199 of 2021, registered at P.S. Iqbal Market, Karachi-West under section 4/5 of the Explosive Substance Act, 1908 (“**Act of 1908**”) r/w section 7 of the Anti-Terrorism Act, 1997 (“**Act of 1997**”), whereby the Anti-Terrorism Court No. XII, Karachi (“**Trial Court**”) convicted the appellant for the offence punishable under section 5 of the Act of 1908 and sentenced him to suffer R.I. for seven (07) years with the benefit of section 382-B, CrPC.

2. As per prosecution’s case, on 07.03.2021 at about 0245 hours, at main Daba Mord Road, Sector 11 ½ Orangi town, Karachi, the appellant was arrested by a police party headed by ASI Ghazan Zada of P.S. Iqbal Market on being found in possession and control of one rifle grenade. He was booked in the aforesaid FIR. After usual investigation, police submitted the charge-sheet against him. At trial, he denied the charge and the prosecution to prove the same, examined four witnesses. The appellant in his statement recorded under section 342, CrPC denied the prosecution’s allegation and pleaded innocence. He, however, neither examined himself on oath to disprove prosecution’s allegations, nor even led any evidence in his defence. On completion of trial, the Trial Court convicted the appellant and sentenced him as mentioned above, vide impugned judgment.

3. Learned counsel for the appellant has contended that under the instructions he does not press this appeal on merits; however, he seeks reduction of sentence awarded to the appellant to a period which he has already remained in incarceration, on the ground that he has not been convicted for any offence under Act of 1997; he is a young man of 33 years old; he is not previously convicted of any offence and he has served out the sentence excluding the remissions for a period of more than 02 years and 03 months and with remission more than 06 years, whereby he has sufficiently been punished.

4. Learned APG has also conceded to the fact that there is no CRO of the appellant.

5. We have heard the learned counsel for the appellant as well as APG, and have perused the material available on the record.

6. As per jail roll dated 18.09.2025, furnished by the Senior Superintendent, Central Prison & Correctional Facility, Karachi, the appellant after removing the section of the Act of 1997, has served out the sentence of 02 years, 03 months and 06 days, and he has earned remissions of 03 years, 09 months and 10 days. As such, he has served sentence total 06 years and 16 days till 23.09.2025 with remission and his unexpired portion of sentence is about 11 months.

7. It appears from the perusal of the record that though the appellant was charged with the alleged offence read with section 7 of the Act of 1997, yet he has not been convicted and sentenced by the Trial Court under the said provision of Act of 1997. The Trial Court has also not recorded its findings on the charge under section 7 (*ibid*), therefore, in order to ascertain the entitlement of the appellant to remission, we deem it appropriate to deliberate the applicability of the said provision of the Act of 1997.

8. Section 2 (f) of the Act of 1997 defines the term “explosives”, as under:

“explosives” means any bomb, grenade, dynamite, or explosive substance capable of causing an injury to any person or damage to any property and includes any explosive substances defined in the Explosives Act, 1884.

Section 4 (1) of the Explosives Act, 1884 (**“the Act of 1884”**) describes the term “explosives”, as under:

- (a) *“explosives”^{3/4} (a) means gunpowder, nitroglycerine, nitroglycol, gun cotton, dinitrotolouence, trinitro toluene, picric acid, dinitro-phenol, trinitro resorcinol (styphnic acid), cyclo trimethylence trinitramine, penta erythritol tetranitrate, tetryl, nitroguanidine, lead azide, lead styphynate, fulminate of mercury or any other metal, diazo dinitro phenol, coloured fires or any other substances whether a single chemical compound or a mixture of substances, whether solid or liquid or gaseous used or manufactured with a view to produce a practical effect by explosion or pyrotechnic effect; and*
- (b) *includes, -*
- (i) *chemical compounds, compositions or mixture of which will produce, upon release of its potential energy, a sudden outburst of gases, thereby exerting high pressures on its surroundings. Explosives may be solid, liquid or gas, nitro compound or in the form of water gel or slurry;*
- (ii) *fog signals, firework, fuses, rockets, precussion-caps, detonators, cartridges, ammunition of all descriptions and every adaptation or preparation of an explosives as defined in this clause; and*
- (iii) *such other substance as the Federal Government may, by notification in the official Gazette, specify for the purposes of this sub-section.*

Section 2 of the Act of 1908 classifies the term “explosives substance”, as under:

“In this Act the expression “explosive substance” shall be deemed to include any materials for making any explosive substance; also, any apparatus, machine implement or material used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also, any part of any such apparatus, machine or implement.”. (Emphasis supplied)

9. It appears from the perusal of the aforementioned provisions of the Statutes that under Section 2 (f) of the Act of 1997, the “explosives” should be capable of causing an injury to any person or damage to any property and includes any explosive substances defined in the Act of 1884. Section 4 (1) of the Act of 1884

includes in terms “explosives”, various kinds/forms of solitary materials- solid, liquid and gaseous-; chemical compounds, compositions or mixture; and preassembled firearm ammunition and devices, which produce a practical effect by explosion or pyrotechnic effect. Section 2 of the Act of 1908 classifies term “explosives substance”, include the materials for making any explosive substance; any apparatus, machine implement or material used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance and any part of any such apparatus, machine or implement.

10. In the instant case, it is an admitted position that the rifle grenade recovered from possession of the appellant was without launcher; hence, the same was not capable of immediate explosion causing an injury to any person or damage to any property to attract the definition of “explosive” provided under section 2 (f) of the Act of 1997. It also cannot produce a practical effect by explosion or pyrotechnic effect being incomplete preassembled firearm ammunition and device in terms of “explosives” as defined under Section 4 (1) of the Act of 1884. Hence, being a part of an apparatus, machine or implement, it falls within the definition of “explosives substance”, as explained under Section 2 of the Act of 1908, which is punishable under section 5 of the Act of 1908 with imprisonment for a term which may extend to fourteen years. However, no provision of the Act of 1997 attracts to the case of the appellant; hence, he is entitled to the full remission as per rules.

11. We are conscious of the fact that the punishment for any offence committed by a person is awarded for retribution, deterrence and in order to strengthen the society by reforming the guilty. The law itself has categorized the offences. It is well established that punishment for an offence serves not only as a means of retribution but also as a tool for deterrence and a mechanism to strengthen the fabric of society through the rehabilitation of the offender. The law itself classifies offences distinctly. In some instances, punishment is mandated with the expression

“not less than,” denoting a fixed minimum, while in others, the law provides flexibility through terms like *“may extend to”* or *“may extend up to.”* This legislative contrast signifies that, in the latter category, the courts are expected to exercise judicial discretion by taking into account the specific facts and circumstances of the case. These are the kinds of offences where a lesser punishment may serve the ends of justice by allowing room for the offender’s moral and social reformation.

12. Since the appellant is not previously convicted of any offence, nor is there any instance of his involvement in any case, we are inclined to give him an opportunity for reformation. Consequently, the impugned judgment to the extent of conviction is maintained; however, the sentence awarded to the appellant by the Trial Court is reduced to already undergone.

13. With the above modification in the sentence, the appeal is dismissed. The appellant is in jail; he shall be released forthwith if his custody is not required by the jail authorities in any other case/crime.

14. The instant Appeal stands dismissed with above modification in sentence.

ACTING CHIEF JUSTICE

JUDGE

Athar Zai