

Judgment Sheet
**THE HIGH COURT OF SINDH, CIRCUIT COURT,
LARKANA**

Criminal Appeal No.D-78 of 2023

Before:

Mr. Justice Muhammad Saleem Jessar
Mr. Justice Khadim Hussain Soomro

Appellant: Ali Jan son of Shah Muhammad Brohi
Through Mr. Shakeel Ahmed G. Ansari,
Advocate

Respondent: The State, through Mr. Aitbar Ali Bullo,
Deputy Prosecutor General, Sindh.

Date of hearing: 20.12.2023.

Date of Judgment: 20.12.2023.

JUDGMENT

MUHAMMAD SALEEM JESSAR, J. Through this Criminal Appeal, the appellant has challenged Judgment dated 13.12.2023, handed down by learned I-Additional Sessions Judge/Special Judge for Control of Narcotic Substances (MCTC), Shikarpur in Special Case No.310 of 2022 emanated from Crime No. 46/2022, registered at P.S. Lakhi Ghulam Shah for the offence under section 9(c) CNSA, 1997, whereby the appellant was convicted and sentenced to for the offence under section 9(c) CNSA, 1997 for possessing five kilograms of chars to undergo R.I for nine years with fine to the tune of Rs.80000/- (*Rupees Eighty Thousands only*); in case of default in payment of fine, the

appellant to undergo S.I for six months more. However, the benefit of Section 382-B Cr.P.C. was extended to the appellant.

2. Mr. Shakeel Ahmed G. Ansari, advocate files vakalatnama on behalf of the appellant, which is taken on record. He submits that the application under section 491 Cr.P.C was already filed for the appellant; however, he is the only bread earner of his family; as such, he does not wish to contest this Criminal Appeal on merits and leave himself at the mercy of the Court. He states that if this Court while maintaining the conviction reduces the sentence to one he has already undergone, he would not press the Criminal Appeal.

3. On the other hand, learned Deputy Prosecutor General, Sindh concedes that the appellant has remained behind the bars for sufficient period and has learnt the lesson; therefore, he has no objection if a lenient view is taken against him by dismissing instant Criminal Appeal and treating the sentence to one as already undergone.

4. We have heard learned counsel for the appellant as well as learned Deputy Prosecutor General and have gone through the material available on record. The witnesses have supported each other on all salient features of the case and there appears to be no worthwhile contradictions.

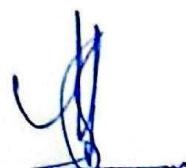
5. The Jail Roll of the appellant was called from the Superintendent, Central Prison and Correctional Facility, Sukkur, which reflects that the appellant has served out major portion of his sentence including remission. The appellant is sole bread earner of his family, he has remained in jail and learnt the lesson as he has undergone sufficient period of his sentence, therefore, there is no legal impediment in accepting the request of the appellant.

6. Only in order to enable the appellant to reform and rehabilitate himself to rejoin the mainstream life to once again

48

become a useful member thereof and in view of the fact that the appellant has filed application under section 491 Cr.P.C. and by taking leniency, instant Criminal Appeal is dismissed, but with the reduction of his sentence to one as already undergone by the appellant including fine amount. The appellant is directed to be released forthwith if he is not required in any other custody case. Office is directed to issue release writ of the appellant today.

7. Instant Criminal Appeal is dismissed with the above modification.


JUDGE
JUDGE

Manzoor