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### ***Judgment Sheet***

### **THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA**

**Criminal Jail Appeal No.D-37 of 2023**

Before:

***Mr. Justice Muhammad Saleem Jessar***

***Mr. Justice Khadim Hussain Soomro***

Appellant: Madad Ali son of Abdul Majeed Shaikh  
Present in person.

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

Date of hearing: 19.12.2023.

Date of Judgment: 19.12.2023.

### **JUDGMENT**

**MUHAMMAD SALEEM JESSAR, J.** Through this Criminal Jail Appeal, the appellant has challenged Judgment dated 25.09.2023, penned down by learned I-Additional Sessions Judge/MCTC/Special Judge for CNS Cases, Kandhkot in Special CNS Case No.33 of 2023 emanated from Crime No. 35/2023, registered at P.S. Guddu for the offence under section 9(b) CNSA, 1997, whereby the appellant was convicted and sentenced to for the offence under section 9(b) CNSA, 1997 for possessing 1000 grams of hemp (Bhang) to undergo R.I for three years with fine to the tune of Rs.30,000/- (*Rupees Thirty Thousands only*); in case of default in payment of fine, the appellant to undergo S.I for three months more. However, the benefit of Section 382-B Cr.P.C. was extended to the appellant.

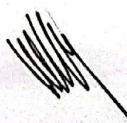


2. The appellant produced in custody submits that he is the only bread earner of his family; as such, he does not wish to contest this Criminal Jail Appeal on merits and leaves himself at the mercy of the Court. He states that if this Court while maintaining the conviction reduces the sentence to one he has already undergone, he would not press the Criminal Jail 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 Jail Appeal and treating the sentence to one as already undergone.

4. We have heard the appellant as well as learned Deputy Prosecutor General and have gone through the material available on record. From perusal of record, it transpires that though the alleged offence had occurred on 11.07.2023, however, neither the prosecution nor the Court has taken into consideration that fact, which goes in favour of the accused. However in para-25 of the impugned judgment, the Trial Court has noted down that the appellant is the first offender and lenient view has been taken in his favour by awarding three years sentence. The contraband recovered from him is Bhang, which is easily available in the market and can easily be foisted to any one, therefore, the appellant, produced before this Court in custody submits that he is addict of same and has not involved in its transportation or selling.

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 sufficient 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





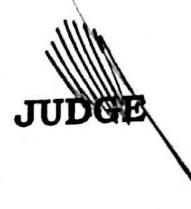
his sentence, therefore, there is no legal impediment in accepting the request of the appellant.

6. Only in order to enable the appellant to reform and rehabilitate himself to rejoin the mainstream life to once again become a useful member thereof, by taking leniency, instant Criminal Jail 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 Jail Appeal is dismissed with the above modification.



19/12/2023  
JUDGE



JUDGE

Manzoor