

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.D-05 of 2022

Appellant: Badar-uz-Zaman Shah Kalhoro
through Mr. Jehangir Khan Pathan,
Advocate.

Respondent: The State through Mr. Muhammad
Noonari D.P.G. Sindh.

Date of hearing: 04.10.2022.

Date of Decision: 04.10.2022.

J U D G M E N T

AMJAD ALI SAHITO, J. Through this Criminal Appeal, the appellant has challenged the judgment dated 22.12.2021, passed by learned Model Criminal Trial Court-I/Special Judge CNS Act, Hyderabad in Special Case No.167 of 2021, Crime No.36 of 2021 registered at PS Chalgiri, Hyderabad for the offence under section 9 (c) CNS Act, 1997, whereby the appellant was convicted and sentenced for the offence u/s 9 (c) CNS Act, 1997 for possessing 2500 grams of charas to undergo R.I. for five years and six months with fine to the tune of Rs.25,000/-; in case of default to undergo S.I. for five months and fifteen days. However, the benefit of section 382-B Cr.P.C. was extended to the appellant.

2. Learned counsel for the appellant, at the very outset, has stated that the appellant is only bread earner of his family and has remained in Jail for sufficient period and still is being dragged in the instant case; as such, he does not wish to contest this Criminal Appeal and leave the appellant 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 D.P.G. Sindh concedes that the appellant has remained behind the bars for sufficient period and learned the lesson, therefore, he has no objection if a lenient view is taken against him by dismissing the instant Criminal Appeal and treating the sentence to one as already undergone.

4. We have heard the learned counsel for the appellant, learned D.P.G. for the State and have gone through the record. The witnesses have supported each other on all salient features of the case and there appears to be no worthwhile contradictions. The offence pertains to the year 2021. The appellant is behind the bars. The Jail Roll of the appellant was called from the concerned Jail, which reflects that the appellant has served out three years, ten months and five days including remission. The appellant is sole bread earner of his family and has remained in jail and learned the lesson as he has undergone sufficient period of his sentence. The punishment provided for the same is upto 5 ½ years, therefore, there is no legal impediment in accepting request of learned counsel for the appellant.

5. 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 Appeal is dismissed but with the reduction of his sentence to one as already undergone by the appellant including fine amount. In view of the above position, the office is directed to issue a release writ for the appellant if he is not required in any other custody case.

6. Instant Criminal Appeal is **dismissed** with the above modification.

JUDGE

JUDGE