

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Jail Appeal No.D-114 of 2020
Criminal Appeal No.D-117 of 2020

Appellant: Manzoor Mari through Toseef Ahmed Chandio, Advocate.

Respondent: The State through Mr. Nazar Muhammad Memon A.P.G. Sindh.

Date of hearing: 07.09.2022.

Date of Decision: 07.09.2022.

JUDGMENT

AMJAD ALI SAHITO, J. In terms of judgment dated 12.11.2020, passed by learned 1st Additioanl Sessions/MCTC Judge, Shaheed Benazirabad in Special Case No.341 of 2019, Crime No.80 of 2019 registered at PS Airport, Nawabshah for the offence under section 9 (c) CNS Act, 1997, the appellant was convicted and sentenced for the offence u/s 9 (c) CNS Act, 1997 for possessing 5000 grams of charas to undergo R.I. for seven years and six months with fine to the tune of Rs.35,000/-; in case of default to undergo S.I. for six months and fifteen days. However, the benefit of section 382-B Cr.P.C. was extended to the appellant. Firstly, through this Criminal Jail Appeal, the appellant has challenged his conviction and sentence and then he again preferred a captioned Criminal Appeal through his counsel against the same judgment, as such, the same are being disposed of together.

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 of his sentence and still is being dragged in the instant case; as such, he does not wish to contest these Appeals 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 Appeals.

3. On the other hand, learned A.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 Appeals and treating the sentence to one as already undergone.

4. We have heard the learned counsel for the appellant, learned A.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 2019. 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 eight years and eleven days including remission and only there remains four days to be served out. The appellant is sole bread earner of his family and has remained in jail and learned the lesson as he has undergone maximum period of his sentence. The punishment provided for the same is upto 7 ½ years, therefore, there is no legal impediment in accepting request of learned counsel for the appellant. The Honorable Supreme Court while deciding an unreported case titled as ***'Mst.Sughran & Mst. Khalida v. The State'*** [Criminal Appeal No.125 of 2020], has also provided an opportunity to the convict enabling him to reform and rehabilitate himself to rejoin the mainstream life to once again become a useful member and while considering the substantial period already served out by the convict reduced his sentence to the period already undergone.

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 and keeping in view the Honourable Supreme Court's decision [supra], 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. The captioned Appeals are **dismissed** with the above modification.

JUDGE

JUDGE

Abdullah Channa/P.S