

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.**

Criminal Appeal No.D-165 of 2019.

Present:-

Mr. Justice Muhammad IqbalKalhor.

Mr. Justice Khadim Hussain Tunio.

Date of hearing: 20.05.2020.

Date of decision: 20.05.2020

Appellant: Through Mr. Saad Salman Ghani, advocate.

The State: Through Mr. ShahzadSaleemNahiyoon, D.P.G.

JUDGMENT

==

MUHAMMAD IQBALKALHORO, J:-Appellant Bilawalwas arrested on 02.08.2019 at 0630 hours by SIP HotchandMeghwarof P.S. Kunripatrolling along with his staff and from his possession 1005 grams of Charas was recovered. Such memo was prepared on the spot and the appellant was booked in the present case.

2. During the trial, prosecution examined complainant SIP Hotchand, MashirPC Imtiaz, PC Odho Maland I.O. of the caseSIP Khalid Mehmoodwho produced all the relevant documents including report of the chemical examiner. The trial Court after recording the statement of appellant under section 342 Cr.P.C. has decided the case vide impugned judgment dated 07.09.2019 convicting the appellant to undergo R.I. for four years and six months and to pay fine of Rs.20,000/- and in case of default thereof to further undergoS.I. for five months. The appellant has been, however, extended benefit contemplated under section 382-B Cr.P.C.Hence, this appeal.

3. Learned counsel for the appellant after arguing the appeal on merits at some length submits that appellant is first offender and of young age,

therefore, if the period of sentence already undergone by him is treated as sentence, he will not press the appeal on merits. The appellant who has been produced in custody has made the same request.

4. Learned Deputy Prosecutor General has recorded his no objection to this proposal.

5. We have considered submissions of parties and perused the material available on record. The prosecution witnesses have supported the case against the appellant on all salient features vis-a-viz his arrest at the spot, recovery of alleged Charas from him, etc. The chemical report is also in positive and it shows that property was received by the Chemical Examiner in a sealed condition which establishes its safe transmission. However, it is an admitted fact that the appellant is the first offender and no case of like nature or otherwise has ever been registered against him. The jail roll received on 16.04.2020 shows that the appellant has remained in jail for 08 months and 14 days and has earned remission of 04 months and 08 days which will become one (01) year and twenty two (22) days. We are of the view that the punishment appellant has already undergone is sufficient for a first offender like appellant particularly when learned defence counsel has disclosed that the appellant is remorseful of his past and wants to improve himself. Considering these facts as well as no objection extended by the learned Deputy Prosecutor General, we see no impediment legal or otherwise to accede to the request of learned defence counsel for reduction of sentence.

6. Accordingly, this criminal appeal is dismissed on merits, however, sentence of the appellant is reduced to the period already undergone by him. The fine amount is also reduced from Rs.20,000/- to Rs.10,000/- and in default thereof he shall suffer R.I. for one week i.e. 07 days more.

7. The appeal is disposed of in the terms as stated above.

JUDGE

JUDGE