

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

Before:

Mr. Justice Mohammad Karim Khan Agha  
Justice Mrs. Kausar Sultana Hussain

Cr. Appeal No.D-117 of 2022

Muhammad Ali alias Pullo

Versus.

The State.

Appellant Muhammad Ali alias Pullo	through Mr. Muhammad Jameel Ahmed, Advocate
Respondent : The State	through Ms. Sana Memon, Assistant Prosecutor General
Date of hearing	11.01.2023
Date of judgment	11.01.2023

**J U D G M E N T**

**MOHAMMAD KARIM KHAN AGHA, J.-** This criminal appeal is directed against the judgment dated 11.10.2022, passed by learned Ist. Additional Sessions Judge / Model Criminal Trial Court, Kotri, in Special Case No.13 of 2022, arising out of Crime No.02 of 2022, registered at Police Station Excise Narcotic Control Circle, Kotri, under section 9(c) Control of Narcotic Substances Act, 1997, whereby the appellant has been convicted u/s 9(c) of CNS Act, 1997 and sentenced to suffer rigorous imprisonment for three years and to pay the fine of Rs.20,000/-. In case of default in payment of fine he was ordered to suffer simple imprisonment for 05 months more. Benefit of Section 382-B Cr.P.C. was also extended to the accused.

2. Brief facts of the prosecution case are that complainant AETNCO Syed Aijaz Ali Shah, in-charge Excise Narcotic Control Circle Kotri has lodged the FIR at Excise Narcotic Control Circle Kotri, stating therein that on 27-2-2022 the complainant along with staff EC

Zulfiqar Ali, EC Habibullah, EC Sikandar Ali, EC Haji Piyaro and EC Khuda Bux vide entry No.59 on spy information in private vehicle left Circle Kotri to proceed towards pointed place Darya Band Kotri and arrived there where the person of same description was available who on seeing excise police officials tried to run away but he was apprehended and on inquiry disclosed his name as Muhammad Ali @ Pullo s/o Muhammad Lakhano by caste Ghuryani r/o Darya Band near Dalaan jo Pirr Kotri, District Jamshoro. Due to non-availability of private mashirs, the complainant appointed EC Zulfiqar Ali and EC Habibullah as mashirs and conducted physical search and during physical search complainant party recovered one black color shopper from front pocket of shalwar which was checked found containing three patties of chars wrapped in white color plastic polythene. On further inquiry, from side pocket of shirt one note of Rs.5000/, one note of Rs.1000/ and two notes of Rs.500/ each total Rs.7000/ were recovered along with one silver color Q-Mobile phone. The recovered chars was weighed on spot and weight of each patti became 500-grams, total became 1500-grams. Thereafter, the chars was sealed in white color cloth for Chemical examination and prepared such memorandum in presence of excise police officials. Then accused and case property were brought at police station where F.I.R. was lodged by the complainant on behalf of the State.

3. After usual investigation, the matter was challaned and accused claimed to be tried.

4. In order to prove its case, prosecution examined 03(three) witnesses and exhibited various documents and other items.

5. The appellant in his statement recorded under Section 342 Cr.P.C denied the prosecution's allegation by pleading innocence; he, however, did not examine himself on oath or any one in his defense.

6. On conclusion of trial, learned Trial Court found the appellant to be guilty for the above said offence and then convicted and sentenced him as stated earlier in this judgment, which is impugned by the appellant before this Court by way of instant appeal.



7. Learned trial Court in the impugned judgment had already discussed the facts and the evidence in detail and there is no need to repeat the same here, so as to avoid duplication and unnecessary repetition.

8. At the very outset, learned advocate for appellant, under the instructions of the appellant, states that he would not argue the case on merits and would accept his guilt provided that he was given some reasonable reduction in his sentence based on the following mitigating circumstances.

- (a) that the appellant was a first offender and is capable of reformation,
- (b) that he was a young man with a large family to support; and,
- (c) that by not contesting the case on merits, he has shown his genuine remorse,

9. Based upon the above mitigating circumstances, learned A.P.G. has also raised no objection to a reduction in sentence to some reasonable extent.

10. We have gone through the evidence available on record and found that the appellant was arrested red handed and a recovery of 1500 grams of charas was made from him, which was sealed on the spot. No enmity has been suggested against the police officials to falsely implicate the appellant in this case; and, as such it is well settled by now that under these such circumstances, the evidence of police officials can safely be relied upon; and, as such we rely upon the same. The safe custody and transportation of the narcotic has been proved, which led to a positive chemical report; and as such, the prosecution has proved its case against the appellant without any shadow of doubt, hence the findings of the trial Court does not suffer from any infirmity nor the same are based upon misreading and non-reading of the evidence, hence, the impugned judgment does not call for interference by this court and the conviction of the appellant is maintained. However, with regard to sentencing based on the mitigating factors as mentioned above and the no objection given by the learned A.P.G, we hereby reduce the sentence of the appellant

from three (03) years to two (02) years R.I and waive off his fine. The appellant shall be entitled to the benefit of section 382-B Cr.P.C, as well as the remissions earned by him under the law.

11. This appeal stands disposed of in the above terms.

Hyderabad:

Dt: 11.01.2022