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

Criminal Jail Appeal No.D-10 of 2023

Before:

*Mr. Justice Muhammad Saleem Jessar
Mr. Justice Khadim Hussain Soomro*

Appellant: Ihsan Ali son of Sanjar Kosh
Through Mr. Ahsan Ahmed Qureshi,
Advocate

Respondent: The State, through Mr. Ali Anwar
Kandhro, Additional Prosecutor General,
Sindh.

Date of hearing: 15.11.2023.

Date of Judgment: 15.11.2023.

JUDGMENT

MUHAMMAD SALEEM JESSAR, J. Through this Criminal Jail Appeal, the appellant has challenged Judgment dated 02.05.2023, passed by learned Special Judge for CNS/Sessions Judge, Kashmore at Kandhkot in Special Narcotics Case No.26 of 2022, Crime No. 163/2022, registered at P.S. A-Section Kandhkot for the offence under section 9(c) CNSA, 1997, whereby the appellant was convicted and sentenced to for the offence under section 9(c) CNSA, 1997 for possessing 3000 grams of char to undergo R.I for five years and six months with fine to the tune of Rs.25,000/- (*Rupees Twenty Five Thousands only*); in case of default to undergo S.I for five months and fifteen days more. However, the benefit of Section 382-B Cr.P.C. was extended to the appellant.

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2. Learned counsel for the appellant submits that the appellant is the only bread earner of his family; as such, he does not wish to contest this Criminal Jail Appeal on merits and leave 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. In support of his contentions, learned counsel has placed reliance upon an unreported Judgment passed by Division Bench of this Court on 05.04.2023 vide Criminal Appeal No.D-10/2023 (*Re-Muhammad Yaqoob v/s. The State*).

3. On the other hand, learned Additional 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.

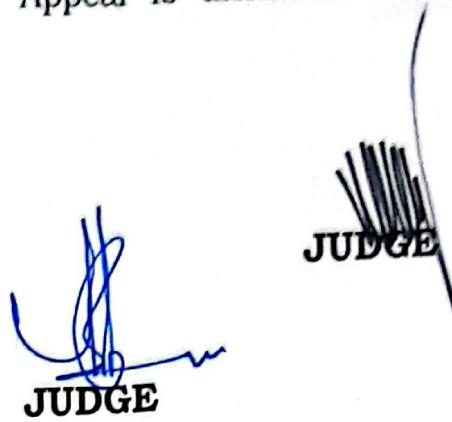
4. We have heard learned counsel for the appellant as well as learned Additional Prosecutor General and have gone through the material available on record. The witnesses have supported each other on all salient features of the case and there appears to be no worthwhile contradictions.

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 his sentence upto two years and five months 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.



JUDGE

Manzoor