

37

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

Criminal Appeal No.D-24 of 2023

Before:

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

Appellant: Ashique Ali son of Ghulam Rasool Gadehi.


Respondent: The State, through Mr. Ali Anwar
Kandhro, Additional Prosecutor General,
Sindh a/w Ahmed Nawaz Tunio, Assistant
Superintendent, Central Prison and
Correctional Facility, Larkana.

Date of hearing: 01.11.2023.

Date of Judgment: 01.11.2023.

J U D G M E N T

MUHAMMAD SALEEM JESSAR, J. Through this Criminal Appeal, the appellant has challenged Judgment dated 27.07.2023, passed by learned Sessions Judge/Special Judge for CNSA, Kamber-Shahadadkot at Kamber in Special Case No.46 of 2023, Crime No. 05/2023, registered at P.S. Mahi Makol 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 1100 grams of chars to undergo R.I for three years with fine to the tune of Rs.10,000/- (Rupees Ten Thousands only); in case of default to undergo S.I for three months more. However, the benefit of Section 382-B Cr.P.C. was extended to the appellant.



2. Pursuant to directions contained in the order dated 25.10.2023, ASP Irfan Meo of Central Prison, Sukkur is present and submits application of appellant Jamshed Shaikh duly endorsed by the ASP under the cover of their Office letter No.JB/-17755/2023 dated 01.11.2023, which is taken on record. Perusal of said application reveals that the appellant has made request to the effect that he being pauper has no means to engage his counsel and that he is the only bread earner of his family and has remained in jail for sufficient period and still is being dragged in instant case; as such, he does not wish to contest this Criminal Jail Appeal 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.

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 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. The offence pertains to year 2022. The Jail Roll of the appellant was called from the concerned jail, which reflects that the appellant has served out major portion of his sentence including remission. The appellant is sole bread earner of his family and 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.

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 Jail Appeal is dismissed, but with the reduction of his sentence to one as already undergone by the appellant including fine amount. Appellant is in custody, he may be released forthwith if his custody is not required in any other custody case. Office is directed to issue release writ of the appellant today.

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



JUDGE



JUDGE

Manzoor