

JUDGMENT SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.

Present:

1. Mr. Justice Ahmed Ali Shaikh,
2. Mr. Justice Nisar Muhammad Shaikh.

CR JAIL APPEAL NO.D-16 OF 2009.

Abdul Mujahid. Appellant.

Versus.

The State. Respondent.

Appellant: Through Mr. Nandan A. Kella,
Advocate.

Respondent the State: Through Mr. Amjad Ali Sahito, Special
Prosecutor ANF.

Date of hearing: 27.09.2011.

Date of judgment: 27.09.2011.

JUDGMENT.

AHMED ALI SHAIKH, J:- The appellant after having been found guilty under section 9(b) of Control of Narcotic Substances Act, 1997 for the recovery of 550 grams of heroine powder from his possession was convicted and sentenced to suffer R.I. for 07 years with a fine of Rs.50,000/- or in default thereof to further undergo 06 months.

At very outset, learned counsel for the appellant has stated that he will not press the appeal on merits, however, his only grievance is with regard to quantum of sentence awarded to the appellant. Per learned counsel, at the time of incident appellant was a tender age and according to record he was about 17 years. He has further contended that appellant was a first offender, and no previous record of the conviction of appellant in any offence was on record.

Mr. Amjad Ali Sahito, learned Special Prosecutor, ANF, half heatedly opposed the submission of learned counsel but could not controvert the contention raised by learned counsel for the appellant.

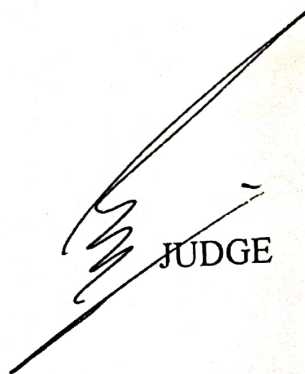
We have heard counsel for the parties and perused the record in the light of arguments advanced before us. From the perusal of record it appears that no previous conviction, in any offence, is on record. The appellant is a first offender and at the time of incident he was below 18 years. Jail-roll available in file reflects that the appellant has served

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out his sentence for about 4 years, without remissions and if the remissions earned by him, are included then same period will exceed from 5 years.

For the forgoing reasons and in the light of dicta laid down by Apex Court in the case of *Niaz-ud-Din Vs The State (2007 SCMR 206)*, we reduce the sentence of the appellant from 07 years and fine to one already undergone.

With the above modification, the instant appeal is dismissed, alongwith listed application.



JUDGE



JUDGE