

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Present:

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Muhammad Saleem Jessar.

Criminal Jail Appeal No.D-66 of 2022

Appellants: Manzoor Ahmed and Qurban through
Mr. Toseef Ahmed Chandio, Advocate.

Respondent: The State through Shahzad Saleem
Nahiyon Deputy Prosecutor General
Sindh.

Date of hearing: 25.10.2022.

Date of Decision: 25.10.2022.

JUDGMENT

Through this Criminal Jail Appeal, the appellants have challenged the judgment dated 28.04.2022, passed by learned VIth Additional Sessions Judge/MCTC, Shaheed Benazirabad in Special Narcotics Case No.63 of 2022, Crime No.10 of 2022 registered at PS B-Section Nawabshah for the offence under section 9 (c) CNS Act, 1997, whereby the appellants were convicted for the offence u/s 9 (c) CNS Act, 1997 for possessing 3000 grams of opium by appellant Manzoor Ahmed, 2000 grams of opium by appellant Qurban. Apart from that 12000 grams opium was allegedly recovered from dicky of car. The appellants however have been sentenced to undergo R.I. for seven years and pay fine to the tune of Rs.30,000/- each; in case of default to undergo S.I. for five months more. However, the benefit of section 382-B Cr.P.C. was extended to the appellants. The Court has convicted and sentenced the appellants only for individual possession i.e. 2000 grams and 3000 grams respectively and not for 12000 grams opium recovered allegedly from dicky of car. No revision application has been filed by the State against such decision.

2. Learned counsel for the appellants, at the very outset, has stated that the appellants have remained in Jail for sufficient period

and still are confined behind the bars in the instant case; as such, he does not wish to contest this Criminal Jail Appeal and leave the appellants at the mercy of the Court. He states that if this Court while maintaining the conviction reduces the sentence to the one they have already undergone, he would not press the Criminal Jail Appeal.

3. On the other hand, learned Deputy Prosecutor General Sindh concedes that the appellants have remained behind the bars for sufficient period and learnt the lesson, therefore, he has no objection if a lenient view is taken against them by dismissing the instant Criminal Jail Appeal and treating the sentence to the period already undergone by them

4. We have heard the learned counsel for the appellants, learned D.P.G. for the State and have gone through the record. The witnesses have supported each other on all salient features of the case and there appears to be no worthwhile contradictions. The appellants are behind the bars. The Jail Roll of the appellants was called from the concerned Jail, which reflects that the appellants have served out three years, nine months and fourteen days including remission. The appellants have remained in jail for sufficient period and have learnt the lesson. The punishment awarded to the appellants is for seven years. They are first offenders as there is no record of their previous involvement in any criminal case. There is no legal impediment in accepting request of learned counsel for the appellants in such circumstances. Consequently, in order to enable the appellants to reform and rehabilitate themselves to rejoin the mainstream life to once again become useful members of the society, by taking lenient view, instant Criminal Jail Appeal is dismissed but with reduction of their sentence to the one as already undergone by the appellants excluding fine amount. In view of the above position, the office is directed to issue a release writ for the appellants and they shall be released on payment of fine if they are not required in any other custody case.

5. Instant Criminal Jail Appeal is **dismissed** with the above modification.

JUDGE

JUDGE