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**IN THE HIGH COURT OF SINDH AT KARACHI**

**PRESENT:**

***Mr. Justice Mohammad Karim Khan Agha  
Mr. Justice Khadim Hussain Tunio***

**Criminal Appeal No.708 of 2021**

Appellant : Muhammad Ibrahim S/o Abdul Rauf  
Through Mr. Faqir Qurban Ali Soomro,  
Advocate

Respondent : The State through Mr. Muhammad  
Iqbal Awan, Addl. Prosecutor  
General, Sindh.

Date of Hearing : 02.06.2022

Date of Judgment : 02.06.2022

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

Appellant Muhammad Ibrahim was tried in the Court of 1<sup>st</sup> Addl. Session Judge / Model Criminal Trial Court (MCTC)/Special Court (CNS), Karachi Central in Special Case No.930 of 2021 in respect of FIR No.563 of 2021 under Sections 6, 9 (b) of CNS Act, 1997 registered at Police Station Gulberg, Karachi and vide impugned Judgment dated 21.12.2021 he was convicted and sentenced as under;\_

“Under section 265-H (ii) Cr.P.C for offence u/s 6, 9-b Control of Narcotic Substances Act, 1997 and sentenced to suffer RI 06 years and to pay fine of Rs.100,000/- and in default thereof, he was directed to suffer SI for 15 days more.”

2. The brief facts of the prosecution case are that on 14.09.2021 at about 0300 hours, SIP Sohail Ahmed of PS Gulberg, Karachi has arrested accused Muhammad Ibrahim and recovered one piece of Charas weighing 125 grams and cash amount Rs.150/- only from APWA College ground, Karimabad, FB Area, Karachi, under memo and lodged such FIR u/s 6, 9 (b) CNS Act, 1997.



3. After usual investigation, the matter was challaned and the appellant was sent up to face trial. He pleaded not guilty and claimed trial.
4. In order to prove its case, the prosecution examined four PWs and exhibited various items and other documents. The appellant recorded his statement under Section 342 Cr.P.C. whereby he claimed that he was innocent. He did not give evidence on oath or call any witness in support of his defence.
5. After hearing the parties and appreciating the evidence on record, the learned trial Court convicted and sentenced the appellant as set out earlier in this judgment and hence, the appellant has filed this appeal against his conviction and sentence.
6. The facts and evidence of the case have been set out in the impugned judgment and as such there is no need to repeat the same here so as to avoid unnecessary repetition and duplication.
7. At the very outset, learned counsel for the appellant, under instructions, stated that he did not wish to press the appeal on merit provided that he was given a reduction in sentence to some reasonable extent based on the following mitigating factors;\_
  - a) The appellant is a first time offender and capable of reformation.
  - b) The appellant is a young man with a family to support and
  - c) By accepting his guilt, he has shown genuine remorse.
8. Based on the above mitigating circumstances, learned Addl. P.G, Sindh has no objection to the sentence of the appellant being reduced to some reasonable extent.
9. We have gone through the evidence on record and find that the appellant was arrested on the spot by two police officials and



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125 grams of Charas was recovered from him. The appellant had no enmity with the police and they had no reason to falsely implicate him in this case and as such we rely on the evidence and believe the same. The prosecution has proven safe custody of the narcotic from the time when it was recovered to the time when it was sent to chemical examiner which led to a positive chemical report and as such we find that the prosecution has proven its case against the appellant beyond a reasonable doubt and uphold his conviction.

10. With regard to sentencing guidelines in respect of narcotic cases as laid down in the case of Ghulam Murtaza & others vs. the State [PLD 2009 Lahore 362], whereby a recovery of 125 grams of Charas leads to a sentence of 01 year and 03 months and fine of Rs.9000/-. We note however in this case that without giving any aggravating circumstances, learned trial Court has handed down the sentence of 06 years and fine of Rs.100,000/-. We find such sentence keeping in view of the small amount of recovery and the guidelines laid down in the case of Ghulam Murtaza to be unlawful and as such reduce the sentence of the appellant to 01 year and 03 months along with fine of Rs.9000/-. We note from the jail roll that the appellant has already undergone more than 01 year in custody. Keeping in view mitigating circumstances raised by learned counsel for the appellant and the no objection certificate given by learned Addl. P.G, Sindh, we hereby reduce the sentence of the appellant to the time already undergone by him in custody and also waive of his fine. As such the appellant shall be released from custody unless wanted in any other custody case.

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