

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

Special Criminal Anti-Terrorism Jail Appeal No.95 of 2021.

*Present:*

*Mr. Justice Mohammad Karim Khan Agha  
Mr. Justice Zulfiqar Ali Sangi*

**Appellant**

Arsalan @ Shahbaz S/o Bahadur  
Khan through Mr. Moula Bux  
Bhutto, Advocate.

**Respondent**

The State  
through Mr. Muhammad Iqbal  
Awan, Additional Prosecutor  
General Sindh.

**Date of Hearing**

19.08.2022

**Date of Order**

19.08.2022.

**JUDGMENT**

**MOHAMMAD KARIM KHAN AGHA, I:-** The appellant Arsalan @ Shahbaz S/o Bahadur Khan was tried before the Court of Anti-Terrorism Court No.IV, Karachi Division in Special Case No.277/2020 under FIR No.486/2020 for the offence punishable U/s 353/324/186-34 PPC R/w Section 7 ATA, 1997 and Special Case No.277-A/2020 under FIR No.487/2020 for the offence punishable U/s 23(1)(A) of Sindh Arms Act, both FIRs were registered at PS Awami Colony and vide judgment dated 15.06.2021 he was convicted of the said offences and sentenced to suffer imprisonment for three years and fine of Rs.10,000/- and in default of payment of fine, he shall further suffer imprisonment for four months. The appellant was also convicted and sentenced to suffer imprisonment for two years and fine of Rs.10,000/- and in default of payment of fine, he shall further suffer imprisonment for four months. The appellant was also convicted and sentenced to suffer imprisonment for three years and fine of Rs.10,000/- and in default of payment of fine, he shall further suffer imprisonment for six months. All the sentences were ordered to run concurrently. However, the appellant was granted benefit of Section 382-B Cr.P.C.



2. The brief facts of the prosecution case are that on 26.09.2020 police party headed by Complainant SIP Babar Mehmood of PS Awami Colony was busy in patrolling duty in the area. At about 21.55 hours, opposite Salma Bungalows, Sector 10 Bagh-e-Korangi, Karachi police party signaled two suspects riding on one motorcycle to stop. On seeing police party they started firing upon them with intent to kill them and deter them from discharging their lawful duty. In retaliation and self-defence, police party also returned fire. Subsequently, police party encircled and apprehended one suspect in injured condition and his accomplice slipped from the scene. On inquiry apprehended suspect disclosed his name as Arsalan. On his personal search, police recovered one unlicensed pistol of 30 bore loaded magazine with two live bullets and one bullet chamber loaded. He failed to produce valid permission/license of arms and ammunition. Suspected Arsalan disclosed the name of his accomplice as Kashif. After completion of legal formalities, accused was brought to police station where the instant FIRs were registered.

3. After usual investigation, the case was challaned and the accused was sent-up to face the trial where he pleaded not guilty to the charge.

4. The prosecution in order to prove its case examined 04 Prosecution Witnesses and exhibited various documents and other items. The statement of accused was recorded under Section 342 Cr.P.C in which he denied the allegations levelled against him and claimed false implication by the police. However, the appellant did not give evidence on oath nor produce any DWs in support of his defence.

5. After hearing the parties and appreciating the evidence on record, the trial court convicted the appellant and sentenced him as set out earlier in this judgment; hence, the appellant has filed this appeal against his convictions.

6. The facts of the case as well as evidence produced before the trial court find an elaborate mention in the impugned judgment dated 15.06.2021 passed by the trial court and, therefore, the same may not be reproduced here so as to avoid duplication and unnecessary repetition.

7. At the very outset, learned counsel for the appellant under instructions stated that he did not press the case on merit and the

appellant accepted his guilt provided that he was given some reduction in sentence based on following special features/mitigating factors:-

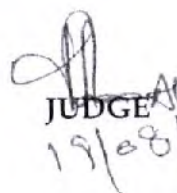
- i) That the appellant was a sole breadwinner of a large family.
- ii) That the appellant was a first time offender and was capable of reformation.
- iii) That the appellant had undergone a substantial portion of his sentence.
- iv) That the appellant had admitted his guilt and shown genuine remorse.

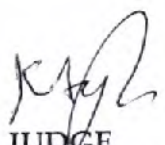
8. Based on the above special features/mitigating factors, the learned Addl. P.G. had no objection to a reasonable reduction in the sentence of the appellant.

9. We have gone through the evidence and found that the appellant was arrested on the spot after an encounter with police whereupon a fire arm was recovered from him for which he had no license. We find the evidence of police witnesses to be reliable trustworthy and confidence inspiring. The recovered pistol also produced a Positive FSL report matching with the empties, as such, we find that the prosecution has proved its case beyond any reasonable doubt.

10. Keeping in view the special features/mitigating factors raised by learned counsel for the appellant and the no objection of learned Addl. P.G. to a reduction in sentence based on such factors and the fact that the appellant has completed a substantial portion of his sentence, we hereby maintain the conviction of the appellant; however, reduce the appellant's sentence to the period already undergone in custody and waive off any fine payable by him. The appellant shall be released unless he is wanted in any other custody case.

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

  
JUDGE  
19/08/2022

  
JUDGE  
19/08/22