

Narcotics : Undergone

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IN THE HIGH COURT OF SINDH, KARACHI

Present:

Mr. Justice Mohammad Karim Khan Agha

Mr. Justice Zulfiqar Ali Sangi

CRIMINAL APPEAL NO. 180 OF 2022.

Appellant	Ameen Baloch @ Ameen Irani son of Ghulam Rasool through Mr. Mamoon A.K. Sherwani, Advocate.
Respondent	The State through Mr. Ali Haider Saleem, Additional Prosecutor General Sindh.
Date of Judgment	01.11.2022

JUDGMENT

Mohammad Karim Khan Agha, J:- The appellant Ameen Baloch @ Ameen Irani son of Ghulam Rasool was tried in the Court of VIIIth Additional District & Sessions Judge/ Additional Model Criminal Trial Court, Karachi West in Sessions Case No.1220 of 2021 in respect of FIR No.1032 of 2021 u/s. 6/9-C of CNS Act, 1997 registered at PS Manghopir, Karachi and vide impugned judgment dated 15.03.2022 appellant was convicted and sentenced to undergo R.I. for 08 years and 06 months with fine of Rs.55,000/- and in case of default in payment of fine, he was ordered to suffer S.I. for 06 months more. However, the benefit of section 382-B Cr.P.C. was extended to the appellant.

2. The brief facts of the prosecution case are that on 11.10.2022 the complainant SIP Chohadry Tasadduq Hussain of PS Manghopir left PS along with police staff namely HC Shahid Saeed, PC Irfan and DPC Ghulam Hussain for patrolling in police mobile and during patrolling when he reached at Chilgozi Cut, Northern Bypass, Manghopir, Karachi he received spy information that one Narcotic seller namely Ameen Baloch @ Ameen Irani son of Ghulam Rasool was coming on a motorcycle for delivery of Charas. On receipt of said information he reached at pointed place at 1525 hours and saw that one person was coming on a motorcycle in suspicious

condition. He tactfully apprehended him. On enquiry he disclosed his name as Ameen Baloch @ Ameen Irani son of Ghulam Rasool and on his personal search SIP recovered 7 packets of chars wrapped in yellow color tape. The 6 packets of chars were weighing 1220 grams each and one packet of chars was weighing 1020 grams total weighing 8340 grams chars from his possession. On his further personal search SIP also recovered one Hand Grenade, one Pistol of 9mm, one Vivo mobile phone and Rs.3500/- from his possession. On further enquiry he could not produce the valid license of the pistol. Then he prepared the memo of arrest and recovery on the spot and sealed the case property and brought the accused and recovered case property at Police Station where he lodged the FIR against the accused separately.

3. After usual investigation, the challan was submitted and the case was sent up for trial whereby the appellant pleaded not guilty to the charge and claimed trial.

4. The prosecution in order to prove its case examined 03 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 leveled against him. However, the appellant did not give evidence on oath nor produced any DW 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 conviction.

6. The facts of the case as well as evidence produced before the trial court find an elaborate mention in the impugned judgment dated 15.03.2022 passed by the trial court 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 of the appellant stated that the appellant would not argue this case on merits and accepted his guilt provided that he is given a reduction in sentence to some reasonable extent based on the following mitigating circumstances:-

- a) That the appellant had not been convicted in any narcotics case.
- b) That the appellant is a young man and had a large family to support.
- c) By not contesting the case on merits the appellant has admitted his guilt and shown genuine remorse.
- d) That the appellant has served a substantial portion of his sentence.

8. Based on these mitigating circumstances mentioned by the appellant, learned Additional Prosecutor General had no objection to the reduction in sentence to some reasonable extent.

9. We have gone through the evidence on record and find that the appellant was arrested on the spot by the police officers who recovered 8340 grams Chars from his possession.

10. The Police witnesses who arrested and recovered the narcotics from the appellant had no enmity or ill will towards him and had no reason to falsely implicate the appellant in this case and their evidence is on the same lines and as such we find their evidence trustworthy and confidence inspiring and believe the same. The narcotics which were recovered from the appellant, produced a positive result when they were sent to the chemical examiner and as such we find that the prosecution has proved its case against the appellant beyond a reasonable doubt and maintain conviction of the appellant.

11. With regard to sentencing based on the mitigating circumstances and the no objection given by the learned Additional Prosecutor General we hereby reduce the sentence of the appellant to that already undergone in jail and also waive his fine. The appellant shall be released unless he is wanted in any other custody case.

12. This appeal stands disposed of in the above terms.