

THE HIGH COURT OF SINDH, KARACHI

Present:

*Mr. Justice Mohammad Karim Khan Agha
Mr. Justice Arshad Hussain Khan*

SPL. CRL. A.T.A. NO.176 OF 2022
SPL. CRL. A.T.A. NO.177 OF 2022

Appellants in both Appeals

Ameen Baloch @ Ameen Irani
son of Ghulam Rasool through
Mr. Liaquat Ali Awan, Advocate.

Respondent

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

JUDGMENT

Mohammad Karim Khan Agha, J:- The appellant Ameen Baloch @ Ameen Irani son of Ghulam Rasool was tried in the Anti-Terrorism Court-II, Clifton, Karachi, in Special Cases No.505 and 505-A of 2021 in respect of FIRs No.1030 and 1031 of 2021, under Sections 4/5 of Explosive Substance Act, read with Section 7 of Anti-Terrorism Act, 1997 and 23(1)(A) of Sindh Arms Act, 2013, registered at police station Manghopir, Karachi and vide impugned judgment dated 13.10.2022, appellant was convicted and sentenced as under:-

01. Accused Ameen Baloch S/o Ghulam Rasool is convicted for offence punishable U/s 23(i)A, SAA and is sentenced U/s 265-H(II) Cr.P.C. to suffer R.I for 3 (three) years, and fine of Rs.3000/-, in default of payment of fine the convict shall suffer further S.I for three months.
02. Accused Ameen Baloch S/o Ghulam Rasool is also convicted for possession hand grenade under suspicious circumstances as provided U/s 5 of Explosive Substance Act and sentenced u/s 265-H(II) Cr.P.C. to suffer R.I for 3 (three) years. All the properties of convict Ameen Baloch S/o Ghulam Rasool stands forfeited to Government as provided U/s 5-A of Explosive Substance Act.

However, it was further ordered by trial Court that all the sentences shall run concurrently and the benefit of section 382-B Cr.P.C. was extended to the appellant.

2. Facts give ^{ing}rise to present cases as stated in FIRs are that on 11.10.2021, SIP Choudhary Tasadduq Hussain of police station Manghopir, along with police officials was performing duty in government mobile No.SPC-831, in search of absconder accused and to curb crimes. During

patrolling they received spy information about presence of a suspicious person at Northern Bypass, Ghalghozi cut, inside Katcha road. On such information, the police party had reached the pointed place, where one person namely Ameen Baloch @ Ameen Irani son of Ghulam Rasool was found. On personal search, police recovered one hand grenade along with pin words ARGES-69 military green in colour with detonator assembly marking No.HdGr from the right side pocket of his shirt. On further search, one 9mm pistol with 10 live rounds rubbed number, the words para Ahe UUm MC-21' Girsan made in turkey engraved on it and narcotics were also recovered from his possession. However, accused had failed to give any explanation or license for the recovered weapon and hand grenade. Police party seized and secured the recovered properties and prepared memo in presence of police officials and after completion of formalities, accused and case properties were brought at police station Manghopir, where separate FIRs under Sections 4/5 of Explosive Substance Act and 23(1)A of Sindh Arms Act, 2013 were registered against the present accused.

3. After usual investigation, the challans were submitted and the cases were sent up for trial whereby the appellant pleaded not guilty to the charge and claimed trial.

4. The prosecution in order to prove its cases 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 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 these appeals 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 13.10.2022 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 did not contest these cases 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 is a young man and had a large family to support.
- b) By not contesting the case on merits the appellant has admitted his guilt and shown genuine remorse.
- c) 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, Sindh, 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 weapon and hand grenade from his possession.

10. The Police witnesses who arrested and recovered the weapon and hand grenade from the appellant had no enmity or ill will towards him and had no reason to falsely implicate the appellant in these cases and their evidence is on the same lines and as such we find their evidence trustworthy and confidence inspiring and believe the same. The FSL reports in respect of recovered pistol and hand grenade as above are positive 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, Sindh, we hereby reduce the sentence of the appellant to that already undergone in jail and also waive his fines. The appellant shall be released unless he is wanted in any other custody case.

12. These Special Criminal Anti-Terrorism Appeals stand disposed of in the above terms.