

Narrative Case:  
One year - Sentence undergo

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## IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

*Mr. Justice Mohammad Karim Khan Agha*  
*Justice Mrs. Kausar Sultana Hussain.*

### Criminal Appeal No.409 of 2020

Appellant : Muhammad Yaseen S/o Muhammad  
Aslam Through Mr. Muhammad Ilyas Awan,  
advocate  
Respondent : The State through Mr. Ali Hyder  
Saleem, Additional Prosecutor General,  
Sindh.  
Date of Hearing : 05.11.2021  
Date of Order : 05.11.2021

## JUDGMENT

**Mohammad Karim Khan Agha, J.-** The Appellant Muhammad Yaseen was booked in FIR No.674/2019, under Section 6/9-B of CNS Act 1997 at Police Station Kharadar, Karachi. He was sent up to face trial before I-Additional Sessions Judge (Model Criminal Trial Court) Karachi South, and was convicted through impugned Judgment dated 15.09.2020 and sentenced to suffer R.I for one (1) year and also directed to pay fine of Rs.2000/- and in default thereof he would further suffer simple imprisonment for fifteen (15) days more. However, he was also given the benefit of Section 382-B Cr.P.C.

2. The brief facts of the case are that on 23.09.2019, the complainant Head Constable Hameedullah and other police officials posted at Police Station Kharadar, Karachi South was on patrolling when they reached at Allah Rakha Park near Machchi Miyani Market, Kharadar, Karachi at about 2330 hours, they found the appellant in suspicious manner, they called the appellant who disclosed his name Muhammad Yaseen and on his personal search 490 grams of Charas was recovered from his possession. The appellant was arrested on the spot and was taken into police custody along with the recovered narcotics and an FIR was lodged against him for offence under CNSA 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 three 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 appreciating the evidence on record, the learned trial Court convicted and sentenced the appellant as set out earlier and hence, the appellant has filed this appeal against his conviction and sentence.

6. The appellant served seven (07) months and fourteen (14) days in jail in respect of one year sentence before being enlarged by this Court on bail. After reading out the evidence, learned counsel for the appellant, Muhammad Yaseen, who is present in Court under instructions, stated that he did not press this case on merit, however, he contended that due to various special mitigating circumstances, the appellant would be satisfied and accept his guilt provided that the sentence handed down to the appellant was reduced to already undergone.

7. We have gone through the evidence and we find the evidence of three PWs to be reliable, trustworthy and confidence inspiring who arrested the appellant on the spot red-handed with narcotics which led to a positive chemical report after being kept in safe custody, as such, we find that the prosecution has proved its case against the appellant beyond a reasonable doubt.

8. Learned trial Court has passed down the proper sentence and conviction to the appellant. It is noted that in the case of Ghulam Murtaza & others vs. the State [PLD 2009 Lahore 362], it was pointed out that the sentencing guideline could be modified at the discretion of the Court provided that there were some special features which warranted such reduction in sentence.

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9. In this case, we find numerous special features/mitigating factors which can justify a reduction in sentence which are as follows:

- i) That the appellant is a first time offender.
- ii) That the appellant is relatively young man of 25 years of age and is capable of reformation.
- iii) That he is the sole breadwinner of his family, who relies on his income.
- iv) That the appellant has fully accepted his guilt and as such has shown genuine remorse for his conduct.
- v) The appellant has served out a substantial part of his sentence.
- vi) The appellant was on bail and has not misused the concession.

10. Based on these special features/mitigating factors and the no objection of learned APG to the reduction in sentence of the appellant, we hereby reduce the sentence of the appellant to that which he has already undergone in jail which also includes payment of the fine.

11. The appellant present in Court is free to go and his bail bond stands discharged.

12. The instant Criminal Appeal is disposed of in the above terms.

Shahzad Soomro