

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Spl. Cr. Appeal No. D – 45 of 2024

(Muhammad Gulfam Malik versus The State)

Before:

Mr. Mahmood A. Khan, J.

Mr. Khalid Hussain Shahani, J.

Date of hearing : **17.09.2025**

Date of decision : **17.09.2025**

Mr. Rukhsar Ahmed Junejo, Advocate for appellant.

Mr. Muhammad Raza Katohar, Deputy Prosecutor General.

J U D G M E N T

Mahmood A. Khan, J. – Through this appeal, the appellant has challenged the judgment dated 25.03.2024, passed by learned Additional Sessions Judge-III / MCTC-II / Special Judge (CNS), Sukkur, arising out of Crime No.35 of 2022, registered at Police Station SIRS, Sukkur under Section 9(c) of the Control of Narcotic Substances Act, 1997. By the said judgment, the appellant was convicted and sentenced to undergo rigorous imprisonment for seven (07) years and six (06) months and to pay a fine of Rs.35,000/- (Rupees thirty five thousand), or in default thereof, to suffer simple imprisonment for six (06) months and fifteen (15) days. However, benefit of Section 382-B Cr.P.C. was extended to him.

2. According to the prosecution's version, as set out in the FIR, the appellant was apprehended by a police party of Police Station SIRS, Sukkur, led by ASI Mashooq Ali, on 16.04.2022 at about 1700 hours near Railway Mall Godown, Bhangi Mohalla. Upon search, a quantity of 5000 grams of charas, divided into five slabs, along with cash of Rs.500/-, was recovered from his possession.

3. Following the usual investigation, framing of formal charge, and the appellant pleading not guilty, the prosecution examined four (04) witnesses in support of its case. Thereafter, statement of the appellant under Section 342 Cr.P.C. was recorded. Ultimately, the learned trial Court convicted and sentenced the appellant as mentioned above. This judgment is now under challenge before us through the present appeal.

4. At the very outset, learned Counsel for the appellant submitted that he does not wish to press the appeal on merits, provided the period already undergone by the appellant in custody is treated as sufficient sentence, enabling his release. Learned Deputy Prosecutor General has raised no objection to this request.

5. We have considered the submission of learned Counsel for the appellant and have examined the available record. The evidence presented by the prosecution is consistent and supports the charge, particularly the recovery of 5000 grams of charas from the appellant at the time of his arrest. The chemical examiner's report is also positive. There are no material contradictions or weaknesses in the prosecution's case. However, it is also a matter of record that the appellant is a first-time offender with no past conviction of a similar nature. It is stated on his behalf that he regrets his actions and seeks an opportunity to reform into society.

6. As per the jail roll dated 17.09.2025, the appellant has already served a substantive sentence of one (01) year and six (06) months, and earned remissions totaling two (02) years, five (05) months, and twenty four (24) days. His remaining sentence, including the default sentence for non-payment of fine, comes to around four (04) years and twenty one (21) days.

7. While Section 9(c) of the CNS Act, 1997 prescribes punishment up to life imprisonment, it does not preclude the imposition of the minimum sentence depending on the circumstances of the case. Considering the appellant's conduct, period of incarceration, lack of previous record and the concurrence of the prosecution, we find it appropriate to exercise leniency.

8. Accordingly, while the appeal stands **dismissed**, the sentence awarded to the appellant is **converted into the period already undergone** by him in jail. He shall be released forthwith if not required in any other custody case.

The appeal stands disposed of in the above terms.

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