

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Criminal Appeal No.255 of 2020

<i>Date</i>	<i>Order with signature of Judge</i>
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1. For orders on office objection.
2. For hearing of Case.
3. For hearing of M.A No.2863/2020.

22.01.2021

Mr. Muhammad Imran Kalmati, Advocate for the Appellant.
Mr. Rana Khalid Hussain, Special Prosecutor for Pakistan Rangers.

ORDER

Muhammad Saleem Jessar, J:- This appeal is directed against the judgment dated **10.03.2020** passed by learned IInd Judicial Magistrate, Karachi (West), in the S.C No.1614/2016, arisen out of Crime No.76/2016, registered at P.S Pakistan Bazar, Karachi, for offence under Section 23(i)(a), 32 S.A.A.O; whereby the appellant Masoom Ali was convicted and sentenced to Seven years rigorous imprisonment and fine of Rs.45,000/-, and in default in payment of fine to suffer S.I for a period of six month more as simple imprisonment; however, benefit of section 382-B Cr.P.C was also extended to the appellant/convict.

Pursuant to directions contained under earlier order, Senior Superintendent, Central Prison & Correctional Facility, Karachi has submitted jail roll of appellant dated 20.01.2021, which reveals that appellant Masoom Ali has earned remissions upto 22.01.2021 as 02 years, 01 months and 18 days and has served out sentence without remissions 04 years, 10 months and 14 days; however, has served out sentence including remissions 07 years, 00 months and 02 days and unexpired portion of his sentence is 00 year, 05 months and 28 days.

Learned counsel for appellant has prayed for a lenient view in the case, on the ground that the appellant and his family members are extremely poor, and he is the only earning member of his family; during confinement of appellant in jail, his family members are on the brink of

starvation. He further contended that the appellant has served out more than half portion of sentence awarded to him, and his conduct in jail has remained satisfactory; as reported in the jail-roll.

Learned Special Prosecutor for Pakistan Rangers, has conceded to the above submission made by learned counsel for appellant and extended no objection, if conviction and sentence of appellant is modified and reduced to a period already undergone by the appellant.

I have considered the submissions made by learned counsel for appellant that the appellant and his family are extremely poor persons and his family members are virtually starving, due to confinement of the appellant in jail. Perusal of the jail-roll shows that the appellant has served out about half of portion of the sentence including remission and his conduct in jail is satisfactory.

In the given circumstances I am inclined to take a lenient view in the matter. Accordingly, the sentence awarded to the appellant including the period he was to undergo in lieu of fine, is reduced to the period of his detention in jail he has already undergone. With the above modification in the sentence of appellant, this appeal is dismissed. Impugned judgment dated 10.03.2020 passed by IInd Judicial Magistrate, Karachi (West) vide Sessions Case No.1614/2016 (re-the State Versus Syed Afsar @ Afsar Hussain Zaidi and another) being outcome of FIR No.76/2016, of P.S Pakistan Bazar, Karachi, under Section 23(i) (a), 32 S.A.A. is hereby maintained; however, the sentences awarded to the appellant are hereby modified in the terms stated above. The appellant Masoom Ali son of Muhammad Azeem shall be released forthwith, if his custody is not required in any other case.

JUDGE

Zulfiqar/P.A