

JUDGMENT SHEET

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Present:

Mr. Justice Muhammad Iqbal Kalhoro,
Mr. Justice Amjad Ali Sahito.

Criminal Appeal No.D-98 of 2020

Date of hearing: 08.12.2021.

Date of Decision: 08.12.2021.

Appellant: Sadam Hussain Son of Muhammad Nawaz Bhatti through Mr. Tarique Ali Jakhrani, Advocate.

Respondent: The State through Mr. Shahid Ahmed Shaikh, Additional Prosecutor General Sindh.

J U D G M E N T

AMJAD ALI SAHITO, -J:- Through this Criminal Appeal, the appellant has challenged the judgment dated 05.11.2020, passed by learned 1st Additional Sessions Judge / Model Criminal Trial Court, Shaheed Benazir Abad in Special Narcotics Case No.377 of 2019, arising out of the Crime No.161 of 2019 of Police Station Sakrand for the offence under section 9 (c) CNS Act, 1997, for possessing 5000 grams of chars whereby the appellant was convicted and sentenced to undergo R.I for seven years and six months and to pay fine to the tune of Rs.35,000/- in case of default in payment of fine, he shall undergo S.I for six months and fifteen days more. However, appellant was extended benefit of section 382-B Cr.P.C.

2. Learned counsel for the appellant, at the very outset, has stated that the appellant has remained in Jail for sufficient period and still is being dragged in the instant case since 2019; as such, he does not wish to contest this Criminal Appeal and leave the appellant at the mercy of the Court. He states that if this Court while maintaining the conviction reduces the

sentence to one he has already undergone, he would not press the Criminal Appeal.

3. On the other hand, learned Additional Prosecutor General Sindh concedes that the appellant has remained behind the bars for sufficient period and learnt the lesson, therefore, he has no objection if a lenient view is taken against him by dismissing the instant Criminal Appeal and treating the sentence to one as already undergone.

4. We have heard the learned counsel for the appellant, learned A.P.G. for the State and have gone through the record. It appears that this Criminal Appeal was presented in the month of November, 2020 and is still pending before this Court. The Jail Roll of the appellant was called from concerned Jail, which reflects that the appellant has served out two years, five months and 22 days excluding remission, which becomes after inclusion of remission as four years, two months and three days of his sentence. The appellant has remained in jail and learnt the lesson as he has undergone for major portion of his sentence and is being dragged since 2019 in the instant crime. Consequently, while taking a leniency, instant Criminal Appeal is dismissed but with modification that the sentence including fine amount is reduced to one as already undergone by the appellant. In view of above position, office is directed to issue release writ for the appellant if he is not required in any other custody case.

5. Instant Criminal Appeal is **dismissed** with above modification.

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2. Learned counsel for the appellant, at the very outset, states that he does not wish to contest this appeal and leave the appellant at the mercy of the Court. He states that if this Court while maintaining the conviction reduces the sentence to one he has already undergone, he would not press this appeal.

3. Learned Additional Prosecutor General, Sindh appearing for the State does not oppose if a lenient view is taken against the appellant by dismissing the appeal to one as already undergone.

4. We have heard the learned counsel for the appellant, learned A.P.G. for the State have gone through the record.

5. It appears that this criminal appeal is pending before this Court since 2020; the offence was registered in the year 2019; the appellant has remained in jail and learnt the lesson as he has undergone for sufficient period of the sentence and is being dragged since 2019 in the instant crime. Consequently, while taking a leniency, instant Criminal Appeal is **dismissed** but with modification that the sentence including fine amount is reduced to one as already undergone. The appellant is in custody present on bail. His bail bonds stand cancelled and surety discharged. The office shall return surety papers to the surety after proper verification and identification as per rules.

6. Instant Criminal Appeal is dismissed with above modification.

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but with modification that the sentence including fine amount
is reduced to one as already undergone