

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.D-105 of 2021

Present:-

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

Date of hearing: 17.08.2022
Date of decision: 17.08.2022
Appellant: Through Mr. Sanaullah advocate holding brief
for Mr. Raja Jawad Ali Sahar advocate.
The State: Through Mr. Nazar Muhammad Memon, APG.

JUDGMENT

MUHAMMAD IQBAL KALHORO, J:- Appellant Amjad Ali was arrested on suspicion by SIP Zulfiqar Ali Odhano posted at PS Sehwan along with his team during patrolling from near protective embankment Sehwan on 30.04.2021 at 2230 hours and from him 1080 grams of chars was recovered, which in chemical analysis was further confirmed to be so.

2. In the trial, prosecution examined four witnesses to support its case and in terms of impugned judgment dated 25.08.2021 appellant has been convicted and sentenced to undergo R.I for four years and to pay fine of Rs.20,000/-, which he has challenged by way of this appeal.

3. Learned defence counsel at the very outset submits that he would not press the appeal on merits if period of sentence the appellant has spent in jail is treated as a sentence to him and he is released.

4. Learned Additional Prosecutor General has recorded no objection to it.

5. We have considered request of learned defense counsel and perused the material available on record. The witnesses have fully supported the prosecution case, arrest of appellant from the spot and recovery of 1080 grams of chars from him which is further supported by positive report of chemical analysis. There is no material discrepancy in

the case. It is obvious that prosecution has proved its case beyond a reasonable doubt. However, there is no record that appellant has ever been previously convicted of the offence of narcotics as confirmed by the learned Additional Prosecutor General. Learned defence counsel states that appellant is remorseful of his past deeds and wants to improve himself to be a good cog in the machine. Jail roll shows that appellant has remained in jail for 11 months 23 days and has earned remission of 02 years, 02 months and 29 days.

6. There is no bar to minimum punishment for keeping possession of 1080 grams of chars and, however could go upto imprisonment for life maximum. Hence, there is no legal impediment in acceding to the request of learned defence counsel, not opposed by the learned Additional Prosecutor General, for reduction of sentence. We, therefore, dismiss this appeal, however, convert the sentence of four years awarded to the appellant into the period already undergone by him in the jail. However, the order regarding payment of fine of Rs.20000/- or 03 months SI on account of its default shall remain intact. The appellant shall be released on payment of fine or after the period in lieu of which he is required to undergo.

7. The appeal is disposed of in the terms as stated above.

JUDGE

JUDGE

Ali Haider