

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Special CrI. **Jail** Appeal No. D- 114 of 2022
Special Criminal Appeal No. D- 117 of 2022

Date of hearing	Order with signature of Judge
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Present:

Mr. Justice Naimatullah Phulpoto
Mr. Justice Abdul Mobeen Lakho.

For hearing of main case.

02.11.2022.

Mr. Noor Muhammad Soomro, Advocate for appellant.
Mr. Aftab Ahmed Shar, Additional Prosecutor General.

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J U D G M E N T.

NAIMATULLAH PHULPOTO, J. Appellant Tanveer son of Ghulam Muhammad bycaste Siyal was tried by learned Additional Sessions Judge-I (MCTC)/Special Judge for (CNS) Khairpur in special case No. 78 of 2021, arising out of crime No. 13/2021 of P.S Sobhodero, for offence under section 9 (b) Control of Narcotic Substances Act, 1997. On conclusion of trial, vide judgment dated 26.09.2022, appellant was convicted for offence U/S 9(b) CNS Act, 1997 and sentenced to suffer R.I for one year and nine months and to pay fine of Rs. 13,000/-, in case of default in payment of fine, appellant was directed to suffer S.I for four months and 15 days more.

2. Appellant Tanveer Siyal filed Special Criminal Jail Appeal No. D-114 of 2022 through Superintendent Central Prison Khairpur while

Special Criminal Appeal No. D- 117 of 2022 has also been filed on behalf of appellant through Mr. Noor Muhammad Soomro Advocate.

3. Brief facts of the prosecution case leading to filing of appeals are that on 31.01.2021 ASI Suhrab Ali Shar of Police Station Sobhodero left P.S for patrolling along with his subordinate staff when reached at Sami, appellant was found in suspicious condition. ASI caught him hold and conducted his personal search and recovered 810 grams charas from his possession in presence of mashirs HC Muhammad Ramzan and PC Hadi Bakhsh. Case property was sealed. Mashirnama of arrest and recovery was prepared. Thereafter FIR was lodged on behalf of State under the above referred section. Charas was sent to Chemical Examiner for report. After usual investigation challan was submitted against appellant. Trial Court famed charge against appellant under section 9(b) CNS Act, 1997 to which, he pleaded not guilty and claimed to be tried.

4. During trial prosecution has examined complainant ASI Suhrab Ali Shar, P.W-2 mashir HC Muhammad Ramzan and PW-03 SIO Sahib Khan Lashari. They produced relevant documents as well as positive report of Chemical Examiner. Thereafter trial Court recorded statement of accused under section 342 Cr.P.C wherein appellant denied the prosecution allegations and claimed his innocence. However, appellant neither examined himself on oath in disproof of charge nor led evidence in his defense but the trial Court after hearing counsel for the parties convicted and sentenced the appellant as stated above.

5. At the very outset, Mr. Noor Muhammad Soomro learned advocate for appellant did not press the appeal on merits and submits that appellant has five children and old parents, he is sole supporter of large family. He is not previously convicted and prayed for lenient view in the

sentence. In support of his contention learned counsel for appellant relied upon the case of *Naseem Khan v. The State* (2021 SCMR 1771).

6. Additional Prosecutor General recorded no objection in case conviction is maintained and sentence is reduced to some reasonable extent.

7. After hearing learned counsel for the parties, we have perused the evidence minutely. Complainant ASI Suhrab Ali Shar deposed before trial Court that appellant was apprehended by him on 31.01.2022 at 2.00 p.m and from his possession 810 grams charas was recovered. Mashirnama of arrest and recovery was prepared by him in presence of mashirs HC Muhammad Ramzan and PC Hadi Bakhsh. Case property was sent to the Chemical Examiner for report and positive report of Chemical Examiner has been produced before trial Court. Trial Court has rightly held that police officials had no enmity to falsely implicate the appellant in this case and report of Chemical Examiner has also not been questioned by the defense counsel. Trial Court has rightly appreciated the prosecution evidence. In the present case appellant's counsel does not press the appeal on merits and prayed for taking a lenient view in the sentence. Learned Additional P.G submits that there is no past history of the appellant regarding his involvement in such type of the offences and appellant is supporter of large family. Purpose of administration of criminal justice is to ensure that majesty of law reigns supreme with peace and equilibrium in the society, it is not designed to wreak vengeance; it must provide opportunity to the errant to possibly reform himself so as to rejoin mainstream life as a useful member thereof. Appellant has not relied upon the false defense and appeal is not pressed on merits thus the case for reduction of his sentence is made out. Consequently, conviction is maintained. Both appeals are dismissed, however, so far sentence of

appellant Tanveer Siyal is concerned, it is reduced from one year and 09 months to 09 months R.I only and fine of Rs. 13,000/- is also reduced to Rs.5,000/-, in case of default in payment of fine, appellant shall suffer S.I for four months and 15 days more .Appellant shall be entitled to benefit of Section 382-B Cr.P.C.

In view of above, both appeals are disposed of in the above terms.

JUDGE

JUDGE

Irfan/PA