

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.D-18 of 2021

Appellant: Muhammad Saleh alias Sallan
through Muhammad Sharif Sial,
Advocate.

Respondent: The State through Mr. Shawak
Rathore, Deputy Prosecutor General
Sindh.

Date of hearing: 20.09.2022.

Date of Decision: 20.09.2022.

J U D G M E N T

AMJAD ALI SAHITO, J. Through this Criminal Appeal, the appellant has challenged the judgment dated 30.01.2021, passed by learned Vth Additional Sessions Judge/MCTC Shaheed Benazirabad in Special Narcotics Case No.380 of 2020, Crime No.44 of 2020 registered at PS Daur for the offence under section 9 (c) CNS Act, 1997, whereby the appellant was convicted and sentenced for the offence u/s 9 (c) CNS Act, 1997 for possessing 2000 grams of charas to undergo R.I. for four years and pay fine to the tune of Rs.15,000/-; in case of default to undergo S.I. for four months more. However, the benefit of section 382-B Cr.P.C. was extended to the appellant.

2. Learned counsel for the appellant, at the very outset, has stated that the appellant is only bread earner of his family and has remained in Jail for sufficient period and still is being dragged in the instant case; 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 D.P.G. Sindh concedes that the appellant has remained behind the bars for sufficient period and learned 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 D.P.G. for the State and have gone through the record. The witnesses have supported each other on all salient features of the case and there appears to be no worthwhile contradictions. However, the offence pertains to the year 2020. The Jail Roll of the appellant was called from the concerned Jail, which reflects that the appellant has served out two years, three months and eight days including remission. The appellant is sole bread earner of his family and has remained in jail and learned the lesson as he has undergone sufficient period of his sentence. The punishment provided for the same is upto four years, therefore, there is no legal impediment in accepting request of learned counsel for the appellant. Only in order to enable the appellant to reform and rehabilitate himself to rejoin the mainstream life to once again become a useful member thereof, by taking leniency, instant Criminal Appeal is dismissed but with the reduction of his sentence to one as already undergone by the appellant including fine amount. Appellant is present on bail. His bail bonds stand cancelled and surety discharged. In view of the above position, the office is directed to return surety documents to the surety after proper verification and identification.

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

JUDGE

JUDGE