

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.D-71 of 2021

Appellant: Ahtasham, who is in custody; however, his father namely Ghulam Mustafa present.

Respondent: The State through Mr. Nazar Muhammad Memon A.P.G. Sindh.

Date of hearing: 31.08.2022.

Date of Decision: 31.08.2022.

**J U D G M E N T**

**AMJAD ALI SAHITO, J.** Through this Criminal Appeal, the appellant has challenged the judgment dated 25.05.2021, passed by learned Special Judge Control Narcotic Substance/Model Criminal Trial Court-II/IV<sup>th</sup> Additional Sessions Judge, Hyderabad, in Special Case No.248 of 2020, Crime No.160 of 2020 registered at PS City, Hyderabad 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 3920 grams of charas to undergo R.I. for six years and six months and pay fine to the tune of Rs.30,000/-; in case of default to undergo S.I. for six months more. However, the benefit of section 382-B Cr.P.C. was extended to the appellant.

**2.** The appellant is in custody; his father namely Ghulam Mustafa having CNIC No.42401-5376288-3 present states that counsel of appellant is not in attendance. He further submits that the appellant has remained in Jail for sufficient period and still is being dragged in the instant case; as such, he requests for disposal of instant Criminal Appeal and leaves the appellant at the mercy of the Court. He states that the appellant would be satisfied and does not press the Criminal Appeal, if this Court while maintaining the conviction reduces the sentence to one he has already undergone.

3. On the other hand, learned A.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. Heard and perused 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 appellant is behind the bars. The Jail Roll of the appellant was called from the concerned Jail, which reflects that the appellant has served out five years, seven month and twenty seven days including remission. The appellant has remained in jail and learned the lesson as he has undergone sufficient period i.e. major portion of his sentence. The punishment provided for the same is upto six years and six months, therefore, there is no legal impediment in accepting request made on behalf of the appellant. Consequently, while 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. In view of the above position, the office is directed to issue a release writ for the appellant if he is not required in any other custody case.

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

JUDGE

JUDGE