

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Jail Appeal No.D-15 of 2020

Appellant: Ghulam Sarwar present having been produced in custody.

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

Date of hearing: 13.09.2022.

Date of Decision: 13.09.2022.

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

**AMJAD ALI SAHITO, J.** Through this Criminal Jail Appeal, the appellant has challenged the judgment dated 12.02.2020, passed by learned Model Criminal Trial Court-I / Special Judge Control of Narcotics Substance Act, Hyderabad in Special Case No.347 of 2019, Crime No.10 of 2019 registered at PS Exise Crime Branch, 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 10 Kilograms of charas to undergo R.I. for twelve years and six months and pay fine to the tune of Rs.60,000/-; in case of default to undergo S.I. for nine months more. However, the benefit of section 382-B Cr.P.C. was extended to the appellant.

**2.** The appellant present in custody has stated that he has remained in Jail for sufficient period and still is being dragged in the instant case. He has further stated that he is the only bread earner of his family; as such, he does not wish to contest this Criminal Jail Appeal and leave himself 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 Jail Appeal.

**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 Jail Appeal and treating the sentence to one as already undergone.

**4.** We have heard the appellant in person, learned A.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 2019. 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 08 years, ten months and twenty two days including remission. The appellant 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 twelve years and six months, therefore, there is no legal impediment in accepting request of 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. Consequently, while taking leniency, instant Criminal Jail 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 Jail Appeal is **dismissed** with the above modification.

**JUDGE**

**JUDGE**