

IN THE HIGH COURT OF SINDH CIRCUIT COURT, HYDERABAD.

Criminal Appeal No.D-115 of 2020

Appellant: Roshan @ Roshu Dahri present having been produced in custody.

Respondent: The State through Mr. Muhammad Ali Noonari D.P.G. Sindh.

Date of hearing: 24.08.2022.

Date of Decision: 24.08.2022.

J U D G M E N T

AMJAD ALI SAHITO, J. Through this Criminal Appeal, the appellant has challenged the judgment dated 23.11.2020, passed by learned 1st Additional Sessions Judge/MCTC, Shaheed Benazirabad in Special Narcotics Case No.480 of 2019, Crime No.81 of 2019 registered at PS Daulatpur 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 9750 grams 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, at the very outset, has stated that he 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 himself at the mercy of the Court. He states that if this Court while maintaining the conviction reduces the sentence to one as already undergone by him, he would not press the Criminal Appeal.

3. On the other hand, learned Additional Deputy General 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 appellant in person, 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 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 eight years, two months and twenty six days including remission. The appellant has remained in jail and learned the lesson as he has undergone sufficient period of his sentence. The punishment awarded to the appellant is twelve years and six months, therefore, there is no legal impediment in accepting request 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