

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Spl. Cr. Appeal No. D – 46 of 2023
(*Muhammad Ali Jagirani versus The State*)

Spl. Cr. Appeal No. D – 47 of 2023
(*Sanaullah Jagirani versus The State*)

Present:

Mr. Muhammad Iqbal Kalhoro, J.
Mr. Arbab Ali Hakro, J.

Dates of hearing : **07.12.2023**

M/s Qurban Ali Malano and Israr Ahmed Shah, Advocates for appellant in Spl. Cr. Appeal No. D-46 of 2023.

Mr. Nazir Ahmed Junejo, Advocate for appellant in Spl. Cr. Appeal No. D-47 of 2023.

Mr. Zulfiqar Ali Jatoi, Additional Prosecutor General.

ORDER

Muhammad Iqbal Kalhoro, J. – Through this order, MA No.724/2023 filed by appellant/applicant Muhammad Ali Jagirani U/S 426 CrPC is decided.

2. Applicant Muhammad Ali Jagirani has been convicted and sentenced maximum for 06 years & 06 months U/S 9(c) of Control of Narcotic Substances Act, 1997, for possessing 3050 grams of *charas*, 1230 grams of opium and 12 grams of heroin. As per case of the prosecution, on the day of incident viz. 22.03.2022, co-accused Sanaullah was arrested from the spot (otaque of Badshah Jagirani, situated at Deh Wada Machhiyoon), whereas, applicant Muhammad Ali spotted there is alleged to make his escape good after throwing a shopper held by him; from which above narcotics were recovered. In further investigation, he was found innocent by the IO and let off. However, the Court took cognizance of the offence against him, and consequently, after the trial, convicted him in the terms, as above.

3. Learned Counsel has filed this application (MA No.724/2023) for suspension of the sentence on the grounds that he was declared innocent in the investigation. He was not arrested from the spot, and the allegation of throwing a shopper of narcotics, requires further enquiry in that the evidence does not show that any effort was made by police to chase and arrest him at the spot. Learned Additional Prosecutor General has, however, opposed this application.

4. Keeping in view the fact that applicant was declared innocent in the investigation and was not arrested from the spot but subsequently, his case requires further appraisal of evidence. Additionally, during the trial, he was on bail, therefore, this application is **allowed**. The sentence of applicant Muhammad Ali Jagirani is suspended. He is granted bail in the sum of Rs.1,00,000/- (*Rupees one lac*) and P.R. bond in the like amount to the satisfaction of Additional Registrar of this Court.

5. So far the appeals are concerned, same are adjourned to **30th January 2024**. Office to place a signed copy of this order in the captioned connected matter.

J U D G E

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Abdul Basit