

**THE HIGH COURT OF SINDH
CIRCUIT COURT AT HYDERABAD**

Cr. Appeal No. S-100 of 2023

| DATE | ORDER WITH SIGNATURE OF JUDGE |
|-------------|--------------------------------------|
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1. For hearing of M.A. No. 5662 of 2023

Appellants : Through Mr. Rao Faisal Ali
The State : Through Ms. Safa Hisbani A.P.G
Date of hearing : 21 July 2023
Date of Decision : 20 October 2023

ORDER

MOHAMMAD ABDUR RAHMAN J. The Appellants have maintained this Appeal under Section 410 of the Code of Criminal Procedure, 1898 as against the Judgment dated 10 June 2023 passed by the 1st Additional Session Judge/MCTC Mirpurkhas in Session Case No. 270 of 2023 and whereby the Appellant was convicted under Section 265-H (ii) of the Code of Criminal Procedure, 1898 of committing an offence under Sections 3, 4 and 6 of the Sindh Prohibition and Preparation Manufacturing, Storage, Sale and Use of Gutka and Manpuri Act, 2019 in Crime No. 32 of 2023 that was registered at PS Mehmoodabad and was for each offence awarded sentences of Rigorous Imprisonment for a term of three years to be served concurrently and to pay a fine of Rs. 200,000 for each offence and on the failure to pay the fine to undergo further Simple Imprisonment for a further term of six months.

2. The matter was listed for the hearing of an Application under Section 426 of the Code of Criminal Procedure, 1898 seeking suspension of the sentence prior to the hearing of the Appeal. I had noted that the Paper Book in this matter had been prepared and Counsels had addressed arguments before me on the main appeal as well but keeping in mind that

the matter was not listed for the hearing of the main appeal, I am passing an order only on the application as listed.

3. Counsel for the Appellant has argued that the term of the offence that has to be served by the Appellant is for three years and it is noted that at the time of the passing of this Order that the Appellant has undergone a sentence of 4 months of that sentence. While relying upon the case of **Abdul Hameed Vs. Muhammad Abdullah and others**¹ the application is allowed and the operation of impugned sentence is suspended and the appellant is directed to be released on bail, subject to his furnishing surety in sum of Rs.100,000/- (Rupees One Hundred thousand) and PR bond in the like amount to the satisfaction of Additional Registrar of this Court.

4. The office is directed to fix the main appeal for hearing within the next two weeks.

JUDGE

Hyderabad dated 20 July 2023.

¹ 1999 SCMR 2589