

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

**Spl. Cr. Appeal No. D – 30 of 2023**

*(Hubdar alias Haboo Jagirani versus The State)*

*Present:*

**Mr. Muhammad Iqbal Kalhoro, J.**

**Mr. Arbab Ali Hakro, J.**

Date of hearing : **23.01.2024**

Date of decision : **23.01.2024**

Mr. Rukhsar Ahmed M. Junejo, Advocate for appellant.  
Mr. Aftab Ahmed Shar, Additional Prosecutor General.

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

**Muhammad Iqbal Kalhoro, J.** – Appellant was arrested by a police party of CIA Centre, Khairpur headed by complainant SIP Roshan Din Burdi from a link road leading from Janwri Goth to Gujo Mor near Gujo Mor on 23.12.2021 at 1800 hours, and from his possession five (05) kilograms of *charas* was recovered.

2. After usual investigation, framing of a formal charge and appellant's pleading not guilty, prosecution, in the trial, examined four (04) witnesses to support its case. Then after recording statement of 342 CrPC of the appellant, the trial Court, vide impugned judgment dated 25.05.2023, has convicted and sentenced the appellant to undergo for 07 years and 06 months and to pay fine of Rs.35,000/-, or in default thereof, to undergo SI for 06 months more; however, he has been extended benefit of Section 382-B CrPC, which judgment, the appellant has challenged by way of this appeal.

3. Learned defense Counsel has stated upfront that he would not press the appeal on its merits, if the time the appellant has already served in jail is considered as a sufficient sentence, leading to his release and disposal of this appeal accordingly. Learned Additional Prosecutor General has not raised any objection to this proposal.

4. We have carefully considered the request of learned defense Counsel and reviewed the available evidence. The witnesses have strongly corroborated the prosecution's story, confirming appellant's arrest at the spot and the recovery of five (05) kilograms of *charas* from him. This is

further substantiated by a positive chemical analysis report. There are no significant inconsistencies in the case, and it is evident that the prosecution has convincingly proven its case. However, there is no documented history of appellant being previously convicted of narcotics-related offenses, as verified by learned Additional Prosecutor General. Learned defense Counsel asserts that the appellant expresses remorse for his past actions and is committed to personal improvement, aiming to contribute positively to society.

5. The jail role of the appellant dated 05.12.2023 shows that he has remained in jail substantially for 02 years & 18 days, has earned remissions of 04 years, 04 months & 24 days, and his unexpired portion is only 01 year, 07 months & 03 days including a sentence for failure to pay fine.

6. There is no legal restriction or obstacle on imposing the minimum punishment for possessing five (05) kilograms of *charas*, with the maximum punishment extending to life imprisonment. Hence, there is no impediment in acceding to the request of learned defence Counsel, which has not been opposed by learned Additional Prosecutor General, to reduce the sentence.

7. We, therefore, **dismiss** this appeal, notwithstanding **convert** the sentence of appellant of 07 years and 06 months including the sentence of failure to pay fine viz. SI for 06 months more into the period already undergone by him in the jail. The appellant shall be released forthwith if he is not required in any other custody case.

The appeal, in above terms, is **disposed of**.

J U D G E

J U D G E

Abdul Basit