

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

**Spl. Cr. Jail Appeal No. D – 53 of 2023**

*(Sajid Hussain Mangi versus The State)*

*Present:*

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

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

Date of hearing : **01.02.2024**

Date of decision : **01.02.2024**

Appellant Sajid Hussain Mangi, produced in custody.  
Mr. Aftab Ahmed Shar, Additional Prosecutor General.

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

**Muhammad Iqbal Kalhoro, J.** – This appeal is filed by appellant Sajid Hussain Mangi, challenging the judgment passed on 06.09.2023 by learned Additional Sessions Judge-I / Special Judge (CNS) / MCTC-I, Sukkur, in Spl. Case No.248/2022 (*Re: The State versus Sajid Hussain and another*), arising from Crime No.104/2022, registered at Police Station SITE Area, Sukkur U/S 9(c) of Control of Narcotic Substances Act, 1997. The appellant has been found guilty and sentenced to undergo rigorous imprisonment for a term of 04 years and 06 months, along with a fine of Rs.20,000/-, or in default thereof, to undergo simple imprisonment for an additional period of 05 months, with benefit of Section 382-B CrPC.

2. The essential facts of the case are that on 01.09.2022 at 0600 hours, a police party led by ASI Waheed Ali of Police Station SITE Area, Sukkur, while patrolling, observed the appellant near WAPDA Grid Station Chowk, Deh Rahooja, carrying a black-coloured lady's bag. Upon noticing the police, appellant attempted to evade, but was apprehended. The bag was found containing *charas* in form of two slabs, weighing 1000 grams and 30 grams, respectively. The substance was sealed on the spot for chemical analysis. The appellant admitted obtaining the *charas* from one Altaf Khoso for the purpose of selling it for his livelihood. Appellant was brought at Police Station and the above FIR was registered.

3. Following the usual investigation, the Challan was submitted, showing the appellant in custody and co-accused Altaf as absconder. The latter voluntarily surrendered, obtained bail and joined the trial. After framing a formal charge and both the appellant and co-accused pleading not guilty, the prosecution presented five witnesses in support of its case. Subsequently, statements of both the appellant and co-accused U/S 342 CrPC were recorded, whereby they denied the allegations and pleaded innocence. The trial court, vide impugned judgment dated 06.09.2023, acquitted co-accused Altaf, giving him benefit of doubt, and convicted and sentenced the appellant, as above. Hence, this appeal.

4. Appellant, appearing in person, has been produced in custody. He expresses that he would not pursue the appeal on its merits, if the time he 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 raised no objection to this proposition.

5. We have considered the request of the appellant and perused the evidence. The witnesses have strongly substantiated the prosecution's account, confirming appellant's arrest at the spot and the recovery of 1030 grams of *charas* from him, supported by a positive chemical analysis report. The case exhibits no significant variations; hence, the prosecution has established its case. However, there is no documented history of the appellant being previously convicted of narcotics-related offenses, as confirmed by the Learned Additional Prosecutor General.

6. The jail role of the appellant dated 01.02.2024 indicates that he has been in jail for a substantial period of 01 year & 05 months, without earning any remissions. The remaining portion of his sentence is 03 years & 06 months, including a sentence for failure to pay the fine.

7. There is no legal obstacle on imposing the minimum punishment for possessing 1030 grams of *charas*, with the maximum punishment extending to life imprisonment. Therefore, considering the appellant's request, unopposed by the learned Additional Prosecutor General, we find no impediment in reducing the sentence of the appellant. Additionally, we

believe that appellant should be given an opportunity to rehabilitate and contribute positively to the society.

8. Consequently, while **dismissing** this appeal, we **convert** appellant's sentence of 04 years and 11 months, including the sentence for failure to pay the fine (SI for 05 months), into the period already undergone by him in jail. The appellant, produced in custody, is remanded to jail, from where he shall be released forthwith, if his custody is not required in any other criminal case.

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

J U D G E

J U D G E

Abdul Basit