

**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**

Special Criminal Jail Appeal No.D-16 of 2023

Appellant:	Ghulam Qadir Brohi through Mr. Rukhsar Ahmed M. Junejo, Advocate.
The State:	through Syed Sardar Ali Shah, Additional Prosecutor General
Date of hearing:	30.11.2023.
Date of decision:	30-11-2023.

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

**MUHAMMAD IQBAL KALHORO, J:-** Appellant Ghulam Qadir Brohi was arrested on 19.07.2022 by police party of PS Pano Akil headed by SI Azhar Ali from Ghuryo Railway Peerwah Bridge near date palm garden, and from his possession 08 slabs of charas each weighing one kg, total 8 kg, were recovered and from his personal search, some articles as cash of Rs.100/- . Such arrest and recovery duly sealed, were documented in the police record. Consequently, FIR bearing Crime No.106 of 2022, for an offence under Section 9(C) was registered against him.

2. After usual investigation, challan was submitted and charge against the appellant was framed. He pleaded not guilty and claimed a trial, hence prosecution examined three witnesses i.e. Complainant Azhar Ali/PW-1 (Ex.5), who has produced FIR and other documents, PW2 SIP Muhammad Shahban (Ex.6), IO of the case, and Mashir of the case namely HC Muhammad Haneef (Ex.7). The last two witnesses have submitted chemical report of recovered charas. At the culmination of prosecution evidence, statement of accused was recorded under Section 342 Cr.P.C in which he denied allegations and by impugned judgment dated 20.03.2023, he was convicted and sentenced to suffer RI for ten (10) years and six (06) months and to pay fine of Rs.50,000/-, in default of payment of fine, he shall suffer SI for eight (08) months more; however, benefit of Section 382(b) was awarded to him.

3. With the able assistance of learned Defence Counsel and learned Additional Prosecutor General, we have read the evidence and have not found any material contradiction therein ruining the intrinsic value of prosecution case qua, arrest of appellant, recovery

of 8 kg charas from him, sealing the same on the spot, sending it to the office of chemical analyzer within two days and the positive lab report, in respect of 8 kg charas. The prosecution has proved the case in respect of all materials aspects of the case.

4. Notwithstanding, learned Counsel for the Appellant has stated that appellant is a first offender and has never been involved in any case, let alone a case of narcotics, hence a lenient view may be taken against him.

5. Learned Additional Prosecutor General has conceded that Appellant is the first offender and has referred to the case law reported as 2023 MLD 875 and 2019 P Cr. L J 1302 in this regard.

6. In both the referred cases, on the ground of first offender, the substantial sentence of convict(s) was reduced. Following the same ratio, as there is no legal or otherwise impediment and the fact that appellant is the first offender, an opportunity should be provided to him to mend his ways and be a useful cog in the machine again. The jail roll of the appellant shows that he has remained in jail for one year, four months and 11 days, has earned remission for four (04) years and sixteen (16) days and his unexpired portion is five (05) years, 09 months and 03 days including the period which he has to suffer due to fine.

7. Learned Additional Prosecutor General has stated that he will have no objection if sentence of the appellant is reduced from ten (10) years to seven (07) years, keeping in view the quantity of charas, which proposal learned defence Counsel has accepted. Accordingly, this appeal is dismissed on merits in view of above discussion; however, the sentence of the appellant is altered and reduced to seven years with fine of Rs.50,000/-. In default of which, he will have to undergo sentence for three months more, with benefit of Section 382(b) Cr.P.C.

8. With such conclusion, the appeal is accordingly disposed of.

**J U D G E**