

IN THE HIGH COURT OF SINDH, KARACHI

Special Criminal A.T. Appeal No.13 of 2021.

Present:

Mr. Justice Mohammad Karim Khan Agha
Mr. Justice Zulfiqar Ali Sangi

Appellant	Sameer @ Sahil S/o Rehmat Ullah through Mr. Ghulam Fareed Baloch, Advocate.
Respondent	The State through Mr. Ali Haider Saleem, Additional Prosecutor General Sindh.
Date of Hearing	25.08.2022
Date of Order	25.08.2022.

JUDGMENT

MOHAMMAD KARIM KHAN AGHA, J:- The appellant Sameer @ Sahil S/o Rahmatullah was tried in the Court of Anti-Terrorism No.VIII, Karachi in Old Special Case No.292/2020 (New Special Case No.80/2020) under FIR No.236/2020 U/s 4/5 Explosive Substance Act, 1908 R/w Section 7 of ATA, 1997 PS Chakiwara, Karachi and vide judgment dated 02.01.2021 he was convicted of the said offence and sentenced to suffer R.I. for five years and fine of Rs.50,000/- and in case of default, he shall serve six months more. However, the appellant was granted benefit of Section 382-B Cr.P.C.

2. The brief facts of the prosecution case as per F.I.R. are that on 10.09.2020 complainant SIP Shabbir Ahmed Laghari posted at PS Chakiwara alongwith subordinates was busy on patrolling duty in their area against prevention of crime. During patrolling, he received spy information that a person is present at Tughlaq Lane, Rangiware behind Lyari General Hospital, Karachi with intention to commit crime. On such information, he alongwith other officials at about 1700 hours, proceeded to the pointed place as per information of spy informer, police spotted a

person in dubious condition encircled and apprehended him. On inquiry, he disclosed his name to be Sameer @ Sahil S/o Rahmatullah. Due to non-availability of private officials, SIP Shabbir Ahmed conducted search of the accused in presence of police officials and made HC Khalid Hussain and PC Muhammad Hussain as witnesses/mashirs. From search of accused, police recovered one hand grenade, in military green colour, clip white colour was painted, due to which number was not readable. SIP Shabbir Ahmed safely took the grenade into police custody and informed the BD team accordingly. From further search of the accused, police recovered one used touch screen mobile phone China (Docomo) colour pink. The act of accused falls u/s 4/5 Explosive Substance Act, hence, the accused was arrested and his memo of arrest and recovery was prepared on the spot. Afterwards, the accused was brought to PS alongwith case property and lodged the instant FIR.

3. After usual investigation, the case was challaned and the accused was sent-up to face the trial where he pleaded not guilty to the charge.

4. The prosecution in order to prove its case examined 04 Prosecution Witnesses and exhibited various documents and other items. The statement of accused was recorded under Section 342 Cr.P.C in which he denied the allegations levelled against him and claimed false implication by the police. However, the appellant did not give evidence on oath nor produce any DWs in support of his defence.

5. After hearing the parties and appreciating the evidence on record, the trial court convicted the appellant and sentenced him as set out earlier in this judgment; hence, the appellant has filed this appeal against his conviction.

6. The facts of the case as well as evidence produced before the trial court find an elaborate mention in the impugned judgment dated 02.01.2021 passed by the trial court and, therefore, the same may not be reproduced here so as to avoid duplication and unnecessary repetition.

7. At the very outset, learned counsel for the appellant under instructions stated that he did not press the appeal on merit and the appellant accepted his guilt provided that he was given some reduction in sentence based on following mitigating factors:-

- i) That the appellant was a young man, who had a large family to support.
- ii) That the appellant was a first time offender and was capable of reformation.
- iii) That the appellant had admitted his guilt and shown genuine remorse.
- iv) That the appellant had served out a substantial portion of his sentence.

8. Based on the above mitigating factors, the learned Addl. P.G. had no objection to a reasonable reduction in the sentence of the appellant.

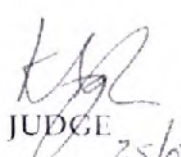
9. We have gone through the evidence and found that the appellant was arrested on the spot and recovered from his possession one hand grenade by the police officials, who had no enmity with the appellant to falsely implicate him in this case and as such we believe their evidence which we find to be reliable trustworthy and confidence inspiring. The recovered hand grenade was sent to BD expert which report received as positive, as such we find that the prosecution has proved its case against the appellant beyond any reasonable doubt and maintain his conviction.

10. With regard to sentencing based on the mitigating factors raised by learned counsel for the appellant and the no objection of learned Addl. P.G. to a reduction in sentence based on such factors and the fact that the appellant has completed a substantial part of his sentence, we hereby reduce the appellant's sentence to the period already undergone in custody and waive off any fine payable by him. The appellant shall be released unless he is wanted in any other custody case.

11. The instant appeal stands disposed of in the above terms.

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JUDGE
25/08/2022


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