

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Mushir Alam

Mr. Justice Yahya Afridi

Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Petition No.14-Q of 2021

*(Against the order dated 31.12.2020 passed by the High Court of Balochistan
in Crl. Appeal No.323 of 2020)*

Naseem Khan

...Petitioner(s)

Versus

The State

...Respondent(s)

For the Petitioner(s):

Mr. Najeeb Ullah Kakai, ASC

For the State:

Mr. Abdul Baqar Shah,
Addl. Prosecutor General, Balochistan

Date of hearing:

31.03.2021.

ORDER

Qazi Muhammad Amin Ahmed, J.- Riding on a bike, the petitioner was surprised by a contingent of Crime Investigation Agency Pashin with 3-k.g. of cannabis, wrapped in three separate packets, concealed beneath the driving seat, on 7.9.2002; along with the contraband, he was handed over to the local police; a learned Additional Sessions Judge at Pashin, returned him a guilty verdict; convicted under clause (c) of section 9 of the Control of Narcotic Substances Act, 1997, he was sentenced to 3-years R.I. with a direction to pay fine, pre-trial period inclusive, upheld by the High Court of Balochistan vide impugned judgment dated 31.12.2020, vires whereof, are being assailed primarily on the ground that notwithstanding, prosecution's case that the raiding party secured sample from each packet, the forensic report relied upon by the prosecution purports a forensic analysis from one sample of 5 grams to confirm the narcotic character of the contraband. It is additionally argued that the petitioner, an errant youth in his first misadventure, deserves in circumstances a benevolent opportunity to reform himself so as to rehabilitate in mainstream life to become a useful member of the society, a possibility obstructed by his continuous stay in prison.

2. Heard. Record perused.

3. Though not specifically pleaded, the petitioner figures somewhat in the adolescent interregnum with no past history to his discredit; prosecution's claim of possession of 3 k.g. of cannabis notwithstanding, the forensic report unambiguously refers to receipt of single sample of 5 grams.

Purpose of administration of criminal justice is to ensure that majesty of law reigns supreme with peace and equilibrium in the society, it is not designed to wreak vengeance; it must provide opportunity to the errant to possibly reform himself so as to rejoin mainstream life as a useful member thereof. Prosecution's reliance upon a single consolidated sample instead of dispatching three separate samples from each bag brings petitioner's case within the purview of clause (b) of the section *ibid* and, thus, a corresponding reduction in his sentence is an option most conscionable in circumstances. Consequently, petitioner's sentence is reduced to already undergone by him with reduction in fine to Rs.5000/- or to undergo two months SI in the event of default. Petition is converted into appeal and partly allowed.

Judge

Judge

Judge

Islamabad, the
31st March, 2021
Azmat/-