

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
LARKANA

Constitution Petition No.D-317 of 2026

Before;
Mr. Justice Riazat Ali Sahar;
Mr. Justice Ali Haider 'Ada'.

Petitioner : Muhammad Azeem son of Rasool Bux by caste Khuhro, *through* Mr. Muhammad Afzal Jagirani, Advocate.

Respondents : Province of Sindh and others, *through* Mr. Mohsin Ali Khan, Assistant Advocate General.

Date of Hearing : 01.09.2026.

Date of Order : 01.09.2026.

ORDER

Ali Haider 'Ada', J:- The instant petition pertains to the main ground that whether the police functionaries and other law enforcement agencies either fulfill their legal obligations regarding the arrest of the nominated accused persons in FIRs, as the complainant after registration of the FIR faces great trouble that the accused persons were not being arrested.

2. Heard learned counsel for the parties and perused the relevant provisions of law.

3. Upon a considered examination, it is evident that the principal reason for the situation referred to hereinabove is the **absence of effective judicial supervision** over the implementation of the law. Despite the measures prescribed under various SOPs, their enforcement has not been subjected to effective and meaningful monitoring.

4. At the outset, **Section 54, Cr.P.C.** empowers the police to effect an arrest without warrant, whereas **Sections 87 and 88, Cr.P.C** provide the prescribed mechanism for proclamation and attachment of the property of a person who

has absconded. Likewise, **Rules 26.1 and 26.2 of the Police Rules, 1934** deal with the power to defer arrest, while **Rule 26.5** provides for obtaining warrants where a wanted person absconds, thereby providing a mechanism for securing his arrest.

5. Furthermore, **Rule 21.5 of the Police Rules, 1934** also prescribes the manner in which absconders and hardened criminals are to be dealt with. The question, therefore, arises as to what steps are required to be taken by the concerned Court once an FIR has been registered and the challan has subsequently been submitted against an absconding accused, so as to secure his attendance before the Court. In this regard, **Section 512, Cr.P.C** provides a mechanism for preserving the evidence already recorded against an accused who has absconded and whose immediate apprehension is not likely. The object and scope of the said provision have been considered in **Tanveer Ahmad and 9 others v. The State and another, 2009 PCr.LJ 919 (Federal Shariat Court); 2021 PCr.LJ 1664 (D.B., Lahore); Mir Qad Ayaz v. Sabir Khan and another, 2016 PCr.LJ 709 (Peshawar); and Manbodh v. Emperor, AIR 1944 Nagpur 274.**

6. Sections 87, 88 and 512, Cr.P.C., read with **Chapter VI, Part F-II, Rule 3 of the Federal Capital and Sind Courts Criminal Circulars**, require that a case diary be maintained on each date of hearing, recording the directions issued for securing the attendance of absconding accused and the issuance of requisite processes. However, it has been observed that, in practice, such processes are not issued and even notices to the sureties of the accused are not taken out. The legal position in this regard was considered in **The State v. Muhammad Saleh and another, PLD 1980 Karachi 131.**

7. In cases where an accused becomes a fugitive from law, it is incumbent upon the trial Court to initiate proceedings

under Sections 87 and 88, Cr.P.C. The trial Court is also required, where necessary, to renew the warrants of arrest on subsequent dates; mere attempts to serve notices upon the accused cannot be treated as sufficient compliance. The essential requirements of Sections 87 and 88, Cr.P.C, including the proper issuance and execution of warrants, must be duly observed. It has, however, been noticed that, in several instances, warrants were not affixed at conspicuous places, including the residence of the accused, nor were proper reports obtained from the concerned law-enforcement agencies to ascertain whether the warrants had in fact been duly executed. Such lapses are plainly inconsistent with the procedure prescribed under Section 87, Cr.P.C. It is further noteworthy that, upon issuance of a proclamation under Section 87, Cr.P.C, the Court may, at any time, order attachment under Section 88, Cr.P.C. of any movable or immovable property belonging to the proclaimed offender. The foregoing principles have been recognized in ***Rasool Bakhsh v. The State*, PLD 2019 Balochistan 63 (D.B.)**; ***Muhammad Ashraf Malik and others v. Judge, Accountability Court No. III, Islamabad and 3 others*, 2021 PCr.LJ 953 (Islamabad-D.B.)**; and ***Mst. Zarizadgai v. Fida Muhammad and others*, PLD 1989 Peshawar 10**.

8. At this stage, reference may also be made to the procedure prescribed under the ***Federal Capital and Sindh Courts Criminal Circulars***. Where a warrant remains unexecuted due to the accused having absconded, concealed himself, or otherwise being unavailable, the case is required to be entered in the General Criminal Calendar and Dormant Register. It is, therefore, **the duty of the Court to maintain these registers and ensure effective monitoring of dormant cases**.

9. This Court finds that the principal reason for the situation is the lack of consistent judicial supervision. Once a

case is consigned to a dormant file, effective judicial oversight often ceases, leaving the matter to the executive agencies. Continuous judicial supervision is, therefore, necessary to ensure effective implementation of law and the apprehension of absconding accused. Accordingly, the following directions are issued:

Firstly, all law-enforcement agencies shall strictly comply with the applicable laws, rules and SOPs for the apprehension of accused persons. Where tangible evidence is available against an accused, prompt action shall be taken for his arrest without avoidable delay. All concerned agencies shall also ensure effective coordination for securing the presence of absconding and proclaimed offenders.

Secondly, the Secretary, Ministry of Interior, Government of Pakistan, and the respective Provincial Home Secretaries shall ensure that the local police are adequately equipped with modern methods, technology and operational resources, with effective coordination among the concerned enforcement agencies.

Thirdly, the Magistrates and trial Courts shall strictly comply with Sections 87 and 88, Cr.P.C, and the relevant Criminal Circulars. Mere formal efforts shall not suffice; the prescribed procedure for warrants, proclamation and attachment shall be duly completed and monitored.

Fourthly, cases involving absconding accused shall not be consigned to dormant files as a matter of routine. Such cases shall be regularly fixed, at least twice a month, and their progress shall be effectively monitored until the lawful process for securing the accused is exhausted.

Fifthly, where the complainant or aggrieved person is dissatisfied with the progress of investigation, the remedies available under Sections 22-A and 22-B, Cr.P.C., shall ordinarily be availed before invoking the extraordinary jurisdiction of this Court.

Sixthly, where the challan has been submitted but an accused remains un arrested, the complainant or aggrieved person may approach the concerned trial Court, which shall examine whether the requisite legal process has been duly undertaken to secure his attendance.

Seventhly, all Courts shall immediately review cases lying in dormant files and fix them for regular proceedings. The concerned enforcement agencies shall furnish progress reports and comply with the lawful directions of the Court for securing the attendance of absconding or proclaimed offenders.

Eighthly, where prosecution witnesses remain unavailable despite exhaustion of lawful measures to secure their attendance, the Court may proceed in accordance with law, keeping in view the principle enunciated in *Ahmed Saeed Shaikh (SIP) and 3 others v. Muhammad Bukhsh and another*, 2016 P Cr.L.J. Note 127.

Lastly, the concerned authorities shall, where necessary, ensure adequate protection to the complainant, aggrieved person and prosecution witnesses in accordance with the Sindh Witness Protection Act, 2013.

10. In view of the foregoing circumstances and the directions issued hereinabove, matters concerning the arrest of absconding or proclaimed accused shall ordinarily be dealt

with by the competent trial Court in accordance with law. The extraordinary jurisdiction of this Court is not to be invoked as a substitute for the remedies available before the competent forum, particularly where effective statutory and judicial mechanisms exist.

11. Accordingly, the instant Constitutional Petition, being devoid of any further justification for interference, is dismissed in the above terms.

JUDGE

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