

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P NO. D-2305 of 2025

[Muhammad Ali @ Ali Wazir v. Federation of Pakistan & Others]

DATE

ORDER WITH SIGNATURES OF JUDGES

For orders on office objection

For hearing of main case.

Before:

JUSTICE ARBAB ALI HAKRO

JUSTICE RIAZAT ALI SAHAR

10.03.2026

Mr. Imdad Hyder Solangi, Advocate for Petitioner.

Mr. Ghulam Abbas Sangi, D.A.G alongwith Inspector Saeed Ahmed from NCCIA, Hyderabad.

Mr. Muhammad Ismail Bhutto, Additional Advocate General, Sindh alongwith ASP Shakeel Baig from Central Prison, Hyderabad.

ORDER

ARBAB ALI HAKRO, J. The gravamen of the instant petition is that the Petitioner was arrested in connection with FIR No.35 of 2025, registered for offences punishable under Sections 123-A, 124-A and 124-B, P.P.C., read with Sections 6 and 7 of the Anti-Terrorism Act, 1997, at Police Station Airport Nawabshah, District Shaheed Benazirabad, and the said matter remained pending before the learned Anti-Terrorism Court, Shaheed Benazirabad. Subsequently, vide order dated 29-05-2025 passed in Special Case No.30 of 2025 arising out of the aforesaid FIR, the learned trial Court returned the case to the Investigation Officer with a specific direction to transmit the same to the National Cyber Crime Investigation Agency (NCCIA), Hyderabad, being the competent authority/forum having exclusive jurisdiction to proceed further in accordance with law under the relevant special enactment.

Learned D.A.G. has filed a compliance report on behalf of the Inspector / Inquiry Officer, NCCIA, Cybercrime, Hyderabad, and submits that upon receipt of the complaint, permission under Section 155 Cr.P.C. was sought from the competent Court of law for the purpose of conducting an investigation from the cybercrime perspective. All possible cybercrime angles were meticulously examined; however, no cybercrime-related facts were discovered against the accused (Petitioner), and the case does not fall

within the ambit of the Prevention of Electronic Crimes Act, 2016 or any other cybercrime-related statutory provision.

He further submits that in the absence of any incriminating cybercrime evidence against the accused (Petitioner), there remains no sufficient ground to justify forwarding the case for trial under cybercrime law. Consequently, the case of the accused squarely attracts the provisions of Section 169 Cr.P.C., as there is no reasonable or sufficient evidence to connect the accused (Petitioner) with the commission of any offence under the Prevention of Electronic Crimes Act, 2016. It is further submitted that the Inquiry Officer, NCCIA, Hyderabad, after obtaining permission from the competent authority, has submitted the report under section 173 Cr.P.C before the learned Magistrate, Hyderabad, keeping the name of the accused (Petitioner) in column No.2 under Section 169 Cr.P.C., as no evidence has been found against him.

Learned counsel for the Petitioner submits that the accused (Petitioner) was initially arrested when the matter was pending before the Anti-Terrorism Court and was facing charges in respect of the same crime; however, subsequently the matter was transferred to the Cybercrime Wing, Hyderabad, where no offence has been established against the Petitioner. He further submits that, as per the Inquiry Officer of NCCIA, Hyderabad, the name of the Petitioner has been placed in column No.2 of the report under section 173 Cr.P.C; therefore, the accused may now be released from jail, as his continued detention is for an indefinite period without any justification in law and neither trial nor investigation is presently pending against him before Competent Court. Learned counsel has also drawn the attention of the Court to prayer clause "B". When confronted, the learned Law Officers present in Court submit that, as per the record, no trial is pending before any competent court of law nor is any investigation pending against the accused (Petitioner). It has been pointed out by Deputy Jail Superintendent Central Prison Hyderabad that petitioner is presently confined in Central Prison Sukkur.

It is a settled principle of criminal jurisprudence that personal liberty of an individual cannot be curtailed except strictly in accordance with law. Once the competent investigative authority itself concludes, through a report under Section 173 Cr.P.C., that no incriminating material has been discovered against the accused and places his name in column No.2 under Section 169 Cr.P.C., the continued detention of such person becomes legally

unsustainable and violative of the fundamental right to liberty guaranteed under Article 9 of the Constitution of the Islamic Republic of Pakistan, 1973. The criminal justice system does not countenance incarceration in the absence of pending investigation or trial.

In the present matter, once the specialised investigative agency has concluded that the allegations do not fall within the ambit of the Prevention of Electronic Crimes Act, 2016 and no incriminating evidence exists against the Petitioner, the continuation of his incarceration would amount to detention without lawful justification. The law does not sanction such deprivation of liberty where neither investigation nor trial is pending before any competent forum.

Another important aspect is that the learned Anti-Terrorism Court, Nawabshah had already returned the matter to the investigating agency (FIA) with directions to transmit it to the competent forum, namely NCCIA, Hyderabad. Once the specialised investigative authority examined the matter from the cybercrime perspective and categorically reported that no offence under the Prevention of Electronic Crimes Act, 2016 is made out, the very substratum of the allegations against the Petitioner stands substantially weakened. In such circumstances, keeping the Petitioner behind bars would amount to punishment without trial, which is impermissible under the settled principles of criminal law.

It is also noteworthy that the learned Law Officers appearing for the State have candidly conceded before this Court that neither any trial nor any further investigation is presently pending against the Petitioner in respect of the subject FIR. Such admission on behalf of the State itself demonstrates that the continued detention of the Petitioner has lost its legal basis and cannot be justified under any provision of law.

Lastly, the Courts are under a constitutional obligation to ensure that the process of law is not used as an instrument of oppression. Where the investigative process has culminated in a report exonerating the accused and no competent forum is seized of the matter for trial, the liberty of the citizen must prevail over speculative apprehensions. The Court, therefore, cannot remain a silent spectator to the indefinite incarceration of a person whose culpability has not been substantiated through lawful evidence.

In view of the above, since at present neither trial nor any inquiry/investigation is pending against the accused (Petitioner) with regard

to FIR bearing Crime No.35 of 2025 for offences punishable under Sections 123-A, 124-A, 124-B PPC read with Sections 6/7 ATA, 1997 of Police Station Airport Nawabshah, District Shaheed Benazirabad, the accused (Petitioner) is ordered to be released on bail forthwith upon furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty Thousand only) and P.R. bond in the like amount to the satisfaction of the Additional Registrar of this Court, if he is not required in any other custody case.

The concerned Magistrate is directed to pass appropriate order on the report furnished by FIA in accordance with law.

Accordingly, the petition stands disposed of alongwith pending application(s), if any.

JUDGE

JUDGE

Sajjad Ali Jessar