

ORDER SHEET
**HIGH COURT OF SINDH CIRCUIT COURT,
HYDERABAD**

Cr. Misc. Application No.S-50 of 2026

DATE	ORDER WITH SIGNATURE OF JUDGE
<u>27.04.2026</u>	Barrister Muslim Chohan, advocate for applicant Mr. Altaf Hussain Khokhar, Deputy Prosecutor General ***

Learned counsel for the applicant contends that the impugned Order dated 24.11.2025 is contrary to the facts on one point that when the impugned order was passed, at that time side of the prosecution was closed and secondly the trial Court has not decided the point whether the said person can be called as Court witness or otherwise and held that law has provided the right to accused and procedure manifest that accused would be asked to produce said witness as defense plea while recording his statement under Section 342 Cr.P.C or 340(2) Cr.P.C. Per counsel after closing side of the prosecution such situation has been commenced. On the other hand learned DPG supported the impugned Orders and states that the applicant may call such person as his witness and in case said person is beyond his control, he can file application for summoning him as Court witness.

Heard learned counsel for the parties and perused the material available on record.

It appears from the record that the impugned order does not have discussion with regard to proposed witness, mentioned in application under Section 540 Cr.P.C, as to whether said person can be called as Court witness or otherwise; however, the trial Court has given observation that said witness can be called by the applicant/defence at the time of recording of defence evidence, which learned DPG has conceded that the applicant may call said person as one of his defence witnesses.

In view of the above the impugned Orders dated 08.01.2026 and 24.11.2025 are set aside and the trial Court is directed to decide the application filed by the applicant under Section 540 Cr.P.C afresh strictly in accordance with law. Instant criminal miscellaneous application stands disposed of accordingly.

JUDGE