

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Crl. Appeal No.492 of 2026

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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1. For hearing of main case.
2. For hearing of M.A. No.13497/2026 (426).

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Date of hearing and short order: 14.09.2026

Mr. Ghulam Murtaza, Advocate for the Appellant.

Mr. Malik Sadaqat Khan, Advocate for SSGC.

Mr. Rashid Ahmed Gabol, APG.

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Abdul Hamid Bhurgri, J.- Through the listed application bearing M.A. No.13497 of 2026, filed under Section 426, Cr.P.C., the appellant, Muhammad Irfan son of Muhammad Zakir, seeks suspension of the sentence awarded to him by the learned Judge, Gas Utility Court, Karachi Division. The appellant, after trial in Special Case No.38 of 2024, instituted by the State/SSGC, was convicted vide judgment dated 01.08.2026 under Section 15 of the Gas (Theft Control and Recovery) Act, 2016, and sentenced to undergo rigorous imprisonment for five (05) years and to pay a fine of Rs.50,000/-.

2. Learned counsel for the appellant contends that the appellant has been awarded a sentence of five years; that he remained on bail throughout the trial and did not misuse the concession so extended to him; and that he has been in custody since the pronouncement of the impugned judgment. He further submits that, having regard to the pendency of cases before this Court, the appeal may not be taken up for final hearing at an early date and, consequently, the appellant may undergo a substantial portion of his sentence before his appeal is finally decided, thereby substantially impairing the efficacy of his statutory right of appeal. He, therefore, prays that the sentence be suspended during pendency of the appeal and the appellant be admitted to bail.

3. Learned counsel appearing for SSGC as well as learned A.P.G. have recorded their no objection to suspension of the

sentence and release of the appellant on bail during pendency of the appeal.

4. I have heard learned counsel for the parties and examined the material available on record for the limited purpose of deciding the present application. At this stage, a detailed appraisal of the evidence or expression of any opinion touching upon the merits of the conviction would neither be appropriate nor desirable, as the same may prejudice the final adjudication of the appeal.

5. Admittedly, the appellant has been sentenced to imprisonment for a term of five (05) years. He remained on bail during the trial and no material has been brought to my notice showing that he ever misused such concession or attempted to evade the process of law. He is in custody since the pronouncement of the impugned judgment. Keeping in view the length of the sentence and the possibility that the appeal may not be taken up for final hearing at an early date, continued incarceration of the appellant may result in his undergoing a substantial portion of the sentence before adjudication of his appeal. The statutory remedy of appeal should, in the circumstances, remain meaningful and effective. These considerations, coupled with the appellant's conduct while on bail during trial and the no-objection tendered by learned counsel for SSGC and learned A.P.G., constitute sufficient grounds for exercise of discretion under Section 426, Cr.P.C. The no-objection tendered by the prosecution has, however, been treated only as an additional circumstance and the relief is being granted upon independent consideration of the relevant factors.

6. For the foregoing reasons, by my short order dated 14.09.2026, M.A. No.13497/2026 was allowed; execution of the sentence awarded to the appellant was suspended during pendency of the instant appeal, and appellant Muhammad Irfan son of Muhammad Zakir was admitted to bail, subject to 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 Nazir of this Court.

7. The appellant shall appear before this Court on each and every date of hearing unless his attendance is specifically dispensed with. In case the appellant misuses the concession of bail, deliberately absents himself without lawful justification, or violates any condition imposed by this Court, the prosecution shall be at liberty to seek cancellation of his bail in accordance with law.

8. It is clarified that the observations made herein are tentative in nature, confined exclusively to the disposal of M.A. No.13497/2026 under Section 426, Cr.P.C., and shall not prejudice either party at the time of final adjudication of the appeal.

Above are the reasons for the short order dated 14.09.2026.

JUDGE

Ayaz Gul