

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
Crl.Rev.Appln.No.165 of 2016

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Order with signature of Judge

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Present : **Mr. Justice Muhammad Ali Mazhar**  
**Mr. Justice Adnan-ul-Karim Memon**

Pervaiz son of Ismail Khan.....Applicant

Versus

The State.....Respondent

**Date of Hearing:-** 30.12.2016

Mr.Rozi Khan Kohistani, advocate for the applicant  
Mr.Muhammad Iqbal Awan, APG

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**Muhammad Ali Mazhar, J:** The applicant was granted bail by learned trial court vide order dated 04.11.2015. However, when the matter was fixed on 10.11.2016, the applicant failed to appear and his counsel was also absent, therefore, his bail bond was forfeited and NBWs were issued with notice under section 514 Cr.P.C., to the surety. On 12.11.2016, the applicant filed an application for condonation of his absence on the ground that due to some misunderstanding, he noted down wrong date, therefore, neither he nor his counsel could appear. Learned trial court vide order dated 12.11.2016 excused his absence subject to furnishing fresh surety and since the applicant failed to furnish fresh surety, he was remanded to jail.

Learned counsel for the applicant submits that the applicant is a poor man and due to lack of resources, he could not furnish fresh surety and he is behind the bar for last 1-1/2 months, therefore, he requests that impugned order may be set aside and applicant may be released on same surety which he earlier furnished vide order dated 04.11.2015.

There may be some misunderstanding on the part of accused while noting down the date but in case of his non-

appearance, learned trial court could have cancelled the bail, forfeited bond and issued notice to surety, so in this regard, there is no illegality or irregularity. However, on application for condonation, order for furnishing fresh surety was passed which means that issue of forfeiture of surety is pending before learned trial court and after comply with all requisite formalities under section 514 Cr.P.C., final order shall be passed where applicant and surety may take their defence including cause of their non-appearance for some lenient view by learned trial court. However, keeping in view the present situation, when specific plea has been taken by learned counsel that applicant is a poor man and not able to arrange surety for similar amount, therefore, he requests that amount of surety may be reduced so that applicant may arrange the same.

Learned APG submits that ANF has nothing to do with this matter as FIR was lodged with PS Shahra-e-Noor Jehan, therefore, he may appear in this case rather than Special Prosecutor, ANF. However, in the present situation, he has no objection if amount of surety is reduced to some reasonable extent.

In view of above, this criminal revision application is disposed of with the directions to learned trial court to accept fresh surety in the sum of Rs.50,000/- and while deciding issue of forfeiture of earlier surety under section 514 Cr.P.C., reasonable opportunity may be afforded to applicant and surety to defend the forfeiture.

J U D G E

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**Ashraf**