

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**  
Cr. Appeal No.D-281 of 2012  
Cr. Jail Appeal No.D-285 of 2012

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DATE	ORDER WITH SIGNATURE OF JUDGE
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18.05.2017

Mr. Ali Ahmed Zaman Khan, Advocate for surety.  
Syed Meeral Shah Bukhari, Additional P.G.

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Appellant Dhani Bux @ Baboo S/o Abdul Raheem was tried by learned 1<sup>st</sup> Additional Sessions Judge/Special Court (CNSA), Hyderabad in Special Case No.98 of 2011. By judgment dated 31.08.2012, appellant Dhani Bux @ Baboo was convicted under Section 9(c) Control of Narcotic Substances Act, 1997 and sentenced to 04 years imprisonment and to pay a fine of Rs.20,000/-, in case of default in payment of fine, he was ordered to suffer R.I for 03 months more. Appellant was remanded to the Jail to serve out the sentence with benefit of Section 382(B) Cr.P.C.

Appeal was preferred by the appellant. It was admitted for regular hearing. This Court vide order dated 17.07.2013 on an application under Section 426 Cr.P.C filed by the appellant, suspended the sentence awarded to the appellant and the appellant was released. After release, the appellant never appeared before this Court. Notice was issued against the appellant and notice to his surety under Section 514 C.P.C through SHO P.S Phulleli, Hyderabad, which was not returned served or un-served. Thereafter, show-cause notice was issued to the SHO P.S Phulleli, as to why he has failed to serve the notice upon the appellant and his surety.

Inspector Rana Pervez of P.S Phulleli, Hyderabad appeared and submits that appellant Dhani Bux @ Baboo is absconder and he is concealing himself. However, he has served the notice upon the surety.

Mr. Ali Ahmed Zaman Khan, Advocate appeared on behalf of the surety. We direct the surety to file the reply of notice under Section 514 Cr.P.C. However, it appears that the appellant has become fugitive from the law and has concealed himself from the proceedings pending against him. The Honourable Supreme Court in the case of *IKRAMULLAH AND OTHERS V/S. THE STATE (2015 SCMR 1002)* has observed as under:-

*9. A report dated 11.12.2014 has been received from the Superintendent, Central Prison, Bannu informing that Adil Nawab appellant had escaped from the said jail during the night between 14/15.04.2012 and he has become a fugitive from law ever since. The law is settled by now that a fugitive from law loses his right of audience before a Court. This appeal is, therefore, dismissed on account of the above mentioned conduct of the appellant with a clarification that if the appellant is recaptured by the authorities or he surrenders to custody then he may apply before this Court seeking resurrection of this appeal.*

In view of the report of SHO P.S Phulleli, Hyderabad, it is clear that the appellant has become a fugitive from the law. The law is settled by now that a fugitive from law loses his right of audience before a Court. This appeal is, therefore, dismissed on account of the above mentioned conduct of the appellant with a clarification that if the appellant is recaptured by the authorities or he surrenders to custody then he may apply before this Court seeking resurrection of this appeal.

Before parting with this order, it is observed that proceedings against the surety shall be continued. However, show-cause notice issued to the SHO is hereby vacated.

Adjourned to a date in office for proceedings against surety.

JUDGE

JUDGE