

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD.**

**Crl. Appeal No.S-65 of 2018.**

Anwar and others. . . . .Appellants.

Versus.

The State. . . . .Respondents.

Mr. Riaz Ali Panhwar, Advocate for the appellants.

Ms. Safa Hisbani, APG.

Date of hearing and order 08.06.2018.

**O R D E R**

**IRSHAD ALI SHAH, J.** The facts in brief leading to passing of instant order are that the applicants allegedly by committing trespass into the house of the complainant Muhammad Yousuf, by using criminal force, fired at him with intention to commit his murder only to settle their dispute with him over possession of plot, that fire hit to his wife Mst. Saran, for that the applicants were booked and challaned accordingly. On conclusion of the trial, they were convicted and sentenced by the learned trial Court as under;

“1. Applicants Anwar, Asif and Nazar for committing offence punishable under section 452 PPC are convicted and sentenced to undergo R.I. for two years and to pay fine of Rs.2000/- each and in case of default in payment of fine to fine S.I. for period of two months.

2. Applicant Anwar for committing offence punishable under section 324 PPC is convicted and sentenced to undergo R.I. for period of five years and to pay fine of Rs.5000/- and in case of default in payment of fine to undergo R.I. for period of three months.

3. Applicant Anwar for committing an offence punishable under section 337-F(iii) PPC was ordered to pay Daman of Rs.10,000/- to Mst. Saran and in case of default thereof he was ordered to remain in jail till payment whereof.”

All the convictions and sentences, which were recorded against the applicants were ordered to run concurrently by the learned trial Court.

The applicants being aggrieved of above said convictions and sentences preferred the appeal, which has been admitted to regular hearing and in the meanwhile they by way of instant application under section 426 Cr.P.C., have sought for their release on bail pending disposal of main appeal.

It is contended by the learned counsel for the applicants that they being innocent were involved in this case falsely by the complainant party only to settle his dispute with them over possession of plot, the impugned judgment is defective one, as it is not containing finding for offence punishable under section 504 PPC, the convictions and sentences which are recorded against the applicants are short one, the hearing of the appeal of the applicants is likely to take time, the applicants were on bail before recording of convictions and sentences against them by the learned trial Court, and there is no possibility of absconsion on their part after their release on bail. By contending so, he sought for release of the applicants on bail by ordering to suspend the operation of the convictions and sentences which were recorded against them by the learned trial Court. In support of his contention he relied upon the case of **Nadeem & others v. the State**, which is reported at **2001 PCr.LJ 541**, (2) case of **Jabbar v. the State**, which is reported at **2014 YLR 135** and (3) case of **Bhutto v. the State**, which is reported at **2017 PCr.LJ Note 66**.

Complainant in pursuance of service of notice appeared before this Court on 01.06.2018, refused to engage his counsel by expressing faith over learned A.P.G.

Learned APG has opposed to grant of bail to the applicants by ordering to suspend the operation of convictions and sentences which were recorded against them by the learned trial Court, by contending that the very short point is involved in appeal, which is not likely to take much time.

I have considered the above arguments and perused the record.

Admittedly, the applicants prior to recording of convictions and sentences against them by the learned trial Court were on bail. The convictions and sentences which are recorded against the applicants have been ordered to run concurrently even by the learned trial Court. There is no finding of the learned trial Court on section 504 PPC. The hearing of the appeal of the applicants is likely to take time. In these circumstances, the operation of the convictions and sentences which were recorded against the applicants by the learned trial Court is suspended. Consequently, they are ordered to be released on bail subject to furnishing surety in sum of Rs.50,000/- (Rupees fifty thousand) each and P.R. Bond in the like amount to the satisfaction of Additional Registrar of this Court.

The instant application is disposed of in above terms.

J U D G E