

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Cr. Rev. Application No. S-36 of 2021

1. For order on office objection.
2. For hearing of M.A No. 2193/2021. (AppIn U/S 426 Cr.P.C).
3. For hearing of main case.

Applicants: Goro @ Gajan @ Abdullah and another,
Through Mr. Imtiaz Ali Mugheri, advocate

Complainant: Shahnour Golo,
Through Mr. Habibullah G. Ghouri, advocate

The State: Through Mr. Muhammad Noonari,
Deputy Prosecutor General.

Date of hearing: 16-07-2021

Date of Decision: 16-07-2021

ORDER

Adnan-ul-Karim Memon, J. Through instant Misc. Application No. 2193/2021 (Under Section 426 Cr. P.C), the appellants seek suspension of sentence awarded to them by the learned Civil Judge and Judicial Magistrate Kandhkot, vide judgment dated 22.03.2021 in Criminal Case No.15/2021, under section 457, 380 PPC arising out of Crime No. 304/2020 of Police Station A-Section Kandhkot, whereby they were convicted and sentenced for an offense punishable under Section 380 PPC to undergo R.I for three years each and to pay fine of Rs.10,000/- each and in case of default of payment of fine amount they were ordered to further undergo S.I for one month each. They were also convicted and sentenced for an offense punishable under Section 457 PPC, to undergo R.I for three years each and to pay a fine of Rs.5000/- each, and in case of default of payment of fine amount they were ordered to further undergo S.I for one month each, however, the benefit of Section 382-B Cr. P.C was extended to them. They being aggrieved by and dissatisfied with the aforesaid judgment dated 22.03.2021 preferred criminal Appeal No.10 and 11 of 2021 before Sessions Judge, Kashmore @ Kandkhot, which were maintained vide judgment dated 27.04.2021

Learned counsel for the appellants has mainly contended that the sentence awarded to the appellants by the learned Trial Court is

three years, which is a short one and the hearing of the appeal will take time. He emphasized that it is a well-settled principle of law that during the pendency of an appeal/revision, the convict may not be kept in custody till his appeal/revision is fixed for hearing and earlier decision thereon. But in this case, the hearing of the main revision application will consume sufficient time to have the decision on merit. Therefore, the sentences awarded to the applicants may be suspended till the decision of revision application and applicants may be enlarged on bail. In support of his contentions, he has relied upon the case law reported as *Abdul Hameed v/s. Muhammad Abdullah (1999 SCMR 2589)*. He has prayed that appellants be released under section 426 Cr. P.C by suspending their sentence during the pendency of this criminal revision application.

Mr. Muhammad Noonari, D.P.G. assisted by Mr. Habibullah G. Ghouri advocate for the complainant have opposed the instant application on the premise that the appellants have been convicted by the learned trial court and concurred by the learned appellate court, therefore, the applicants are not entitled to the concession of Section 426 Cr.P.C.

I have heard learned counsel for the parties and have perused the material available on record with their able assistance.

The sentence of imprisonment passed by the learned trial court against the applicants was quite a short one. The instant revision application is admitted for hearing and definitely, its hearing will take time. Resultantly the sentence awarded to the applicants vide impugned judgment is hereby suspended during the pendency of revision application and the applicants Ghoro @ Gajan @ Abdullah, Nadir Ali, and Bangul are admitted to bail upon their furnishing solvent surety in the sum of Rs.50,000/- (Rupees Fifty thousands only) each and P.R. Bond in the like amount to the satisfaction of Additional Registrar of this Court.

To come upon 30.08.2021 after due notice to all concerned. The office is directed to call for record and proceedings from the learned trial court. M.A. No.2193/2021, under section 426 Cr.P.C is allowed in the above terms.

Judge