

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P. No.D- 229 of 2022

| DATE | ORDER WITH SIGNATURE OF JUDGE(S) |
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1. For orders on M.A- 3696 of 2022 (Urgency application).
2. For orders on office objection.
3. For orders on M.A- 1230 of 2022 (Exemption application).
2. For hearing of main case.

31.03.2022

Mr. Abdul Nawaz Chang, Advocate for the petitioner.

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Heard learned counsel and perused the impugned order as well as record. Being relevant, concluding para of the impugned order (page-41 of the Court file), is that:-

“ I have considered the above submissions of the learned counsel for the parties, and have gone through the material available on record. I find that application U/S 347 Cr.P.C. was filed on 07/09/2021 on behalf of State in criminal case crime No.36/2021 in crime No.22/2021 U/S 377, 511, 337-A(ii), 337-F(i), 337-F(ii), 337-F(iii) PPC of PS Bukera Sharif pending adjudication before the court of learned Judicial Magistrate-I, Chambar and vide impugned order dated 29/09/2021 it was deferred for the time being till appearance of Hasnain Ali, which is now impugned before this court. It is evident from the impugned order that report regarding family tree of Hasnain Ali and B-Form was called from NADRA Department but in the said report the age of Hasnain Ali was not transpired for the reason record was not available. No age/birth certificate of Hasnain Ali was not produced before the learned trial court from the side of applicant. Even ossification report and B-Form of victim Hasnain Ali was not in field on that occasion. Finally, the learned trial court deferred the application u/s 347 Cr.P.C. for the time being vide impugned order dated 28/09/2021. It all shows that no illegality was committed by the learned trial court while recording the impugned order.”

Admittedly, application u/s 347 Cr.P.C. is pending before the trial Court for appearance of Hasnain Ali, who is absconder and his father (petitioner) is claiming that he (Hasnain Ali) is minor. Since trial Court has rightly deferred application u/s 347 Cr.P.C. until appearance of Hasnain Ali, how an ossification test to determine his age can be conducted in his absence. Accordingly, the impugned order is just and proper and the Court below while delivering the same has not committed any illegality or irregularity,

hence it needs no interference. The petitioner shall ensure presence of Hasnain Ali before the trial Court with regard to hearing of application u/s 347 Cr.P.C.

With regard to dismissal of Hasnain Ali's bail application, yet he has not approached this Court seeking same relief. He may file application for bail if has not done earlier.

The petition stands disposed of in above terms.

JUDGE

JUDGE

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