

**IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**

CrI. Appeal No.S- 51 of 2021

- 1.For orders on office objection.
- 2.For hearing of Main Case.
- 3.For hearing of MA 3528/2021.

**Mr. Shabbir Ali Bozdar Advocate for Appellant**  
**Mr. Aftab Ahmed Shar, Additional P.G for the State.**

Date of Hearing: **19-07-2021**

**ORDER**

**MUHAMMAD SALEEM JESSAR J.** Through listed M.A No.-3528 of 2021 being an application under Section 426 CrPC, arising out of judgment dated 21.06.2021, penned down by III-Additional Sessions Judge, Mirpur Mathelo in Sessions Case No.121 of 2020 re: State-Versus Muhammad Haneef Mirani.

2. Trial Court after conclusion of trial and assessment of evidence found the appellant guilty of the charge, therefore, convicted and sentenced him under offence punishable under Section 24 Sindh Arms Act, 2013 to undergo R.I for 05-yers with fine of Rs.5000/- and in case of default in making payment thereof, to suffer one week S.I more with benefit of Section 382-B PPC.

3. Through listed application, appellant seeks suspension of his sentence vis-à-vis impugned judgment dated 21.06.2021 and his release on bail during pendency of main appeal.

4. Learned counsel appearing on behalf of the appellant submits that instant case is arising out of judgment dated 21.06.2021, passed by learned III-Additional Sessions Judge, Mirpur Mathelo re: State-Versus Muhammad Haneef and others in main case viz. Sessions Case No.283 of 2020 re: State-Versus Muhammad Haneef and others vide Crime No.39/2020 P.S, Belo Mirpur under Sections 399, 402, 324, 353, 148 & 149 PPC, in which appellant has been granted bail, hence deserves his release in this case also. He further adds that appeal is fresh one besides sentence awarded to appellant is short one. He further submits that looking to the heavy pendency/backlog of the cases upon board of this Bench, appeal would take sufficient time, therefore, by grating listed application, operation of impugned judgment may be suspended and he may be enlarged on bail. In support of his contention, he placed reliance upon unreported order dated 22.10.2018, vide CrI. Appeal No.S-90 of 2018 re: Zaheer Ahmed v. The State and order dated 29.05.2018 via CrI. Jail Appeal No.D-49 of 2018 re: Waseem and others v. The State, Abdul Hameed v. Muhammad Abdullah and others **(1999 SCMR 2589)**, Nazeer Ahmed v. The State **(2005 PCr.LJ 657)**.

5. On the other hand, learned Additional P.G for the State opposes listed application on the ground that appellant is nominated in the FIR, besides offensive weapon was also recovered from his possession.

6. Heard arguments and perused the record. Admittedly, in main CrI. Appeal No.S-51 of 2021, arising out of Sessions Case No.283 of 2020 re: State-Versus Muhammad Haneef and others vide Crime

No.39/2020 P.S, Belo Mirpur under Sections 399, 402, 324, 353, 148 & 149 PPC, appellant Muhammad Haneef has been admitted to bail by this Court vide order of even dated and this is an off-shoot of main case. Moreover, quantum of sentences awarded to him is five years which in view of dictum laid down by the Hon'ble Supreme Court in cases of Abdul Hameed (supra) comes within the ambit of short term. Though the appeal has been admitted for regular hearing in terms of order dated 01.07.2021, yet R&Ps have not been made available, therefore, paper book has not been prepared by the office. Hence, due to heavy pendency/backlog upon board of this Court, appeal would take sufficient time in its respective turn.

7. In view of above discussion and citations relied upon by learned counsel for the appellant, I am of the opinion that appellant has made-out his case for his release on bail during pendency of main appeal. Consequently, listed application being M.A No-3528 of 2021 is hereby allowed. Resultantly, operation of impugned judgment dated 21.06.2021, handed down by learned III-Additional Sessions Judge, Mirpur Mathelo in Sessions Case No.121 of 2020 re: State-Versus Muhammad Haneef is hereby suspended till final decision of main appeal. Appellant shall be released on bail subject to his furnishing solvent surety in the sum of Rs.50,000/- (Fifty Thousand) with PR bond in the like to the satisfaction of the Additional Registrar of this Court.

8. Office to ensure early preparation of paper book preferably within four weeks' time. Once R&Ps are made available, office shall

issue notices to the counsel for appellant and appellant directly aims to deposit required charges for preparation of paper book within one week's time. In case of failure on the part of appellant or his counsel, this appeal shall be listed for non-prosecution. To come up for hearing of main appeal on **06.09.2021** along with Crl. Appeals No.S- 47 & 50 of 2021.

**J U D G E**

Ahmad