

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

Crl. Revision Application No.S- 52 of 2021

- 1.For orders on Office Objection.
- 2.For hearing of Main Case.
- 2.For orders on MA 3115/2021

**Mr. Nazir Ahmed Junejo Advocate for Applicant/Convict.**  
**Mr. Moula Bux Memon Advocate for Complainant.**  
**Syed Sardar Ali Shah Rizvi, Deputy P.G for the State.**

Date of Hearing: **30-07-2021**

**ORDER**

1. Deferred for the time being.
2. Since this Crl. Revision Application is against the judgments, passed by Courts below, whereby applicant/convict has been convicted and sentenced to R.I for 03-years, therefore, this Crl. Revision Application, being in time, is hereby admitted to regular hearing. Let R&Ps be called from Courts below and paper book be prepared on the cost of applicant which shall be deposited by him within two weeks' time.
3. Through instant application being M.A.No.3115 of 2021 under Section 426 read with Sections 435 & 439 r/w Section 561-A Cr.P.C, applicant who is convict in Crime No.11 of 2020 of P.S, Sobhodero-Khairpur Mirs under Section 392 PPC seeks suspension of his sentence awarded to him by the Court of Judicial Magistrate, Sobhodero vide Criminal Case No.19 of 2020 re: State-Versus Aamir and another in terms of judgment dated 30.11.2020, whereby after full-dressed trial, he was found guilty of the charge and was convicted under Section 392 PPC and sentenced to suffer R.I for 03-years with fine of Rs.30,000/- and in case of failure, he was directed to undergo S.I for 06-months more; however, benefit of Section 382-B Cr.P.C was extended to him.

Applicant/convict preferred Criminal Appeal No.11 of 2020 before learned Sessions Judge, Khairpur Mirs, which subsequently was assigned to Additional Sessions Judge, Gambat, where after hearing the parties, appellate Court also maintained the judgment passed by trial Court by dismissing the appeal vide impugned judgment dated 31.05.2021.

Since, under the scheme of Criminal Procedure Code, 1898, no provision for second appeal is provided, hence the applicant/convict has maintained instant CrI. Revision Application No.S-52 of 2021, thereby has assailed the judgments passed by the Courts below on the grounds, inter alia, mentioned under main CrI. Revision Application. Therefore, facts of the prosecution case are already mentioned in the judgments impugned, therefore, no need to repeat the same.

Learned counsel for the applicant/convict submits that the applicant is innocent; besides evidence adduced by the prosecution was defective, yet Courts below have not appreciated the same and have wrongly convicted and sentenced him. He further submits that sentence awarded to the applicant is 03- years which comes within the ambit of 'short sentence', therefore, looking to the heavy pendency / backlog of the cases upon board of this Bench, this CrI. Revision Application would take sufficient time for its turn, hence he may be enlarged on bail. He further submits that the applicant was all along on bail before the trial Court; besides other cases, as pointed out by learned DPG, have been concluded and ended in acquittal. In support of contentions, he placed reliance upon cases of Abdul Hameed v. Muhammad Abdullah and others **(1999 SCMR 2589)**, Muhammad Imran and another v. The State **(2010 MLD 1087)**, Modassar v. The state and others **(2021 YLR Note 91)** and an unreported order dated 05.11.2018, passed by Single Bench of this Court vide CrI. Revision A.No.S-77 of 2018 re: Irfan Ali v. The State.

On the other hand, learned Deputy P.G for the State though does not oppose the application on the ground of short term sentence; however, submits that looking to severity of offence, convict may be burdened with heavy surety amount.

Learned counsel for the complainant opposed the application on the ground that applicant is habitual offender; besides offence with which he stood charged is heinous one. He; however, admits that complainant of this case is police official and the applicant is also son of a police official and belongs to a professional police family.

Heard arguments and perused the record. Brief history of the case is that applicant/convict was tried by Judicial Magistrate, under Section 392 PPC and was convicted and sentenced to R.I for 03-years with fine of Rs.30,000/- and in default in payment thereof, he was further directed to undergo S.I for 06-months more, hence this Crl. Revision Application has been maintained.

The sentence awarded to applicant/convict is R.I for 03-years, which comes within the ambit of short sentence and before Criminal Revision Application is set down for hearing, it is quite possible that applicant may have served out his entire sentence. Under the circumstances, dictum laid down by the Hon'ble Supreme Court of Pakistan in cases of Abdul Hameed (supra) and Muhammad Imran (supra) is very much applicable to the facts and circumstances of present case. Due to pendency of backlog of cases upon board of this Court, main Revision Application may take sufficient time in its decision.

The upshot of above discussion is that applicant/convict has made-out a good prima facie case for suspension of his sentence under Section 426 Cr.P.C. Consequently, listed application being M.A No-3115 of 2021 is hereby allowed. Resultantly, the operation of impugned judgments dated 30.11.2020 and 31.05.2021, passed by Courts below,

as mentioned above, is hereby suspended till final decision of main Criminal Revision Application. Applicant Muhammad Akram Jamro shall be released on bail subject to his furnishing solvent surety in the sum of Rs.100,000/-(One Lac) with P.R bond in the like to the satisfaction of the Additional Registrar of this Court.

Main Revision Application is adjourned to **13.09.2021**.

**J U D G E**

Ahmad