

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Acctt. Appeal No. D - 39 of 2020

Cr. Acctt. Appeal No. D - 41 of 2020

Before:

Mr. Zafar Ahmed Rajput, J.

Mr. Irshad Ali Shah, J.

Cr. Acctt. Appeal No. D-39 of 2020

For hearing of main case

1. For orders on MA No.5409/2021 (561-A, Cr.P.C.)
2. For hearing of MA No.230/2023 (426, Cr.P.C.)
3. For hearing of main case

Cr. Acctt. Appeal No. D-41 of 2020

For hearing of main case

1. For orders on office objection at Flag-A
2. For hearing of main case

Date(s) of Hearing : 21.02.2023 & 22.02.2023

Date of Order : 22.02.2023

M/s Muhammad Haseeb Jamali, Muzamil Hussain Jalbani and Gulzar Ahmed Soomro, Advocates for the appellants in Cr. Acctt. Appeal No. D-39 of 2020 and for respondents No.1 & 2 in Cr. Acctt. Appeal No. D-40 of 2020.

Mr. Nasir Mehmood Mughal, D.P.G.A. NAB along with M/s Mujeeb-ur-Rehman Soomro and Bahawal-ud-Din Shaikh, Special Prosecutors NAB.

ORDER

ZAFAR AHMED RAJPUT, J. - By means of this application (MA No.230 of 2023 in Cr. Acctt. Appeal No. D-39 of 2020), filed under Section 426, Cr.P.C, appellants/convicts seek suspension of their sentences awarded to them by learned Accountability Court, Sukkur, vide judgment dated 12.11.2020, passed in Reference No.08 of 2019 (*The State v. Tufail Ahmed Soomro and another*), whereby appellant Tufail Ahmed Soomro has been convicted and sentenced to suffer R.I. for 10 years and to pay fine of Rs.15 Million, while appellant Waqar Ahmed Soomro has been convicted and sentenced to suffer R.I. for 08 years and to pay fine of Rs.10 Million.

2. Learned Counsel for the appellants has contended that instant appeal was preferred on 17.11.2020 against the impugned judgment and since then it is pending adjudication. He has further contended that appellant Tufail Ahmed has served out 07 years & 04 months (*including remissions*) and appellant Waqar Ahmed has served out 06 years & 10 months (*including remissions*) and there remain only 04 years & 07 months and 03 years & 01 month, respectively, as their un-served sentences. Learned Counsel has also contended that sometime adjournment has been sought on behalf of the appellants as well as on behalf of prosecution, however, due to backlog the appeal is not likely to be heard and decided in near future; hence, the appellants seek suspension of their sentences and their release on bail.

3. On the other hand, learned D.P.G.A. and Special Prosecutor NAB have maintained that delay in conclusion of the appeal is mainly on the part of appellants and they are ready to proceed with the appeal.

4. Heard; record perused.

5. It is an admitted position that the instant appeal is pending adjudication since its date of filing i.e. 17.11.2022 and it could not be concluded within thirty (30) days as provided under Section 32(b) of the National Accountability Bureau Ordinance, 1999, besides it is not certain whether the same will be proceeded with in foreseeable future. It is also an admitted position that the appellants/convicts have already undergone more than half of their sentences (*including remissions*). Even in case the appeal of the appellants is dismissed by this Court, provisions of Sub-Section (3) of Section 426, Cr.P.C. would come in operation and the period of suspension of sentence shall stand excluded and they would have to

undergo the sentences awarded to them by the Court. We are also conscious of the fact that due to old backlog, instant appeal would not be decided in near future.

6. For the forgoing reasons, the application in hand is **allowed**; the sentences of the appellants are suspended subject to their furnishing solvent surety in the sum of Rs.10 Million each and P.R. bond in the like amount to the satisfaction of the Additional Registrar of this Court.

7. So far the main cases/appeals along with pending application(s) are concerned, same are adjourned to **21st March 2023**. Office is directed to place a signed copy of this order in the captioned connected matter.

J U D G E

J U D G E

Abdul Basit