

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Crl. Misc. Application No.S-440 of 2023
(Muhammad Akhtar @ Akhtar Ali Vs. The State)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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1. For hearing of main case.
2. For hearing of MA No. 3827/2023 (Stay)

11-03-2024.

M/s Anwar Ali Lohar and Nisar Ahmed Dharejo advocates for the applicant.
 Mr. Aftab Ahmed Shar, Additional Prosecutor General for the State.

The applicant by way of instant Crl. Misc. Application under section 561-A Cr.P.C has impugned an order dated 17-06-2023 passed by learned Ist Judicial Magistrate Rohri whereby he has joined the applicant in a trial as an accused, who otherwise was let off by the police by placing his name in Column No.-II of the charge sheet.

It is contended by learned counsel for the applicant that on consecutive investigation the applicant was found innocent; therefore, learned trial Magistrate has joined him in trial as an accused without lawful justification. By contending so, he sought for setting aside of impugned order, which is opposed by learned Additional P.G for the State.

Heard arguments and perused the record.

The burden to make out a case for cognizance is light; same could not be equated with the burden to prove the case at trial. The applicant is named in the FIR and in ancillary evidence. In that situation, the investigating officers were not justified to have declared him innocent by placing his name in column No.II of the charge sheet by disbelieving the complainant and his witnesses. Learned trial Magistrate by joining the applicant as an accused has committed no wrong, which may justify this Court to interfere with impugned order by way of instant Crl. Misc. Application; it is dismissed accordingly directing the applicant to prove his innocence by joining the trial, if so advised to him.

Order accordingly.

Judge