

IN THE HIGH COURT OF SINDH, KARACHI

Before:-

Mr. Justice Hassan Azhar Rizvi, J.

Mr. Justice Mohammed Karim Khan Agha, J.

Appeal number, name of the appellant and his counsel.

1. Cr. Acctt. Appeal No. 06 of 2018 (MA No.2561/2018 (U/s 426 Cr.P.C.) Muhammad Irfan V. The State through NAB. Muhammad Irfan S/o Maqsood Hussain (appellant).

Through M/s. Aamir Raza Naqvi and Afaq Ahmed, Advocates.

2. Cr. Acctt. Appeal No. 07 of 2018 (MA No.3361/2018 (U/s 426 Cr.P.C.) Madad Ali Sheikh V. The State (NAB) Madad Ali Sheikh S/o Dil Murad Sheikh (appellant)

Through Mr. S.M. Iqbal, Advocate.

3. Cr. Acctt. Appeal No. 08 of 2018 (MA No.3362/2018 (U/s 426 Cr.P.C.) Zafar Iqbal V. The State (NAB) Zafar Iqbal S/o Mehboob Ellahi (appellant)

Through Mr.S.M. Iqbal, Advocate.

4. Cr. Acctt. Appeal No. 09 of 2018 (MA No.2744/2018 (U, s 426 Cr.P.C.) Ghulam Mustafa Shaikh & another V. The State. 1. Ghulam Mustafa Shaikh S/o Haji Umer Shaikh (appellant) 2. Muhammad Anis S/o Muhammad Ramzan (appellant)

Through M/s. Shakeel Ahmed and Mukesh Kumar, Advocates.

5. Cr. Acctt. Appeal No. 10 of 2018 (MA No.3687/2018 (U/ s 426 Cr.P.C.)Salahuddin Mughal V. The State

Salahuddin S/o Haji Deen Muhammad (appellant)

Through Mr. Shahab Sarki, Advocate.

6. Cr. Acctt. Appeal No. 11 of 2018 (MA No.3187/2018 (U/s 426 Cr.P.C.) Syed Muhammad Waseem V. The State. Syed Muhammad Waseem S/o Syed Muhammad Saleem (appellant), through M/s. Haq Nawaz Talpur and Taimour Ali Mirza, Advocates.

Counsel for the Respondents

Mr. Munsif Jan, Special Prosecutor, NAB.

Dates of hearing: 11.06.2018, 12.06.2018 and 13.06.2018.

Date of order: 19.06.2018

ORDER

Mohammad Karim Khan Agha, J: By this common order, we propose to dispose of the applications filed under Section 426 Cr.P.C moved by the appellants for the suspension of their sentences pending final disposal of their appeals and the release of the appellants on bail in the above captioned matters, whereby the appellants have been convicted by the learned trial court by a common judgment dated 22.03.2018 in Accountability reference

18 of 2007 State V Salahuddin Mughal and others. The learned trial Court has recorded the following convictions in respect of each appellant:

- (i) **Convict accused (1) Salahuddin Mughal** S/o Haji Deen Muhammad u/s 265-H(ii) Cr.P.C. to suffer R.I. **for ten (10) years and pay fine of Rs.15,00,000/-** and **convict accused (2) Syed Muhammad Irfan** S/o Syed Maqsood Hussain under section 265-H(ii) Cr.P.C. to suffer R.I. **for ten (10) years and also pay fine of Rs.15,00,000/-**. In case of default in payment of fine, they shall suffer further R.I. for two years each. They shall be entitled to the benefit of section 382-B Cr.P.C.
- (ii) **Convict accused (3) Madad Ali Sheikh** S/o Dil Murad under section 265-H(ii) Cr.P.C. to suffer R.I. **for seven years and pay fine of Rs.5,52,000/-**, **convict accused (4) Syed Muhammad Wasim** S/o Syed Muhammad Saleem under section 265-H(ii) Cr.P.C. to suffer R.I. **for seven years and also pay fine of Rs.5,52,000/-**, **convict accused (5) Ghulam Mustafa Shaikh** S/o Haji Umer Shaikh under section 265-H (ii) Cr.P.C. to suffer R.I. **for seven years and pay fine of Rs.5,52,000/-**, **convict accused (6) Muhammad Anis** S/o Muhammad Ramzan under section 265-H(ii) Cr.P.C. to suffer R.I. **for seven years and also pay fine of Rs.5,52,000/-** and **convict accused (7) Zafar Iqbal** S/o Mehboob Ellahi under section 265-H(ii) Cr.P.C. to suffer R.I. **for seven years and also pay fine of Rs.5,52,000/-**. In case of default in payment of fine, they shall suffer further R.I. for two years each. They shall be entitled to the benefit of section 382-Cr.P.C.
- (iii) The accused (1) Salahuddin Mughal (2) Muhammad Irfan, (3) Madad Ali Sheikh (4) Syed Muhammad Wasim, (5) Ghulam Mustafa Sheikh (6) Muhammad Anis and (7) Zafar Iqbal shall stand disqualified in terms of section 15 of Ordinance, 1999 ibid for a period of ten years to be reckoned from the date of release after serving out sentence awarded to them and also from seeking or from being elected, chosen, appointed or nominated as a member of representative of any public body or any statutory or local authority or in service of Pakistan or any Province and also they shall not be allowed to obtain any financial facility in the form of loan or advance from any financial institutions controlled by Government for the period of ten years."

2. The brief facts of the case as alleged in the Reference are that during financial year 2000-2001, accused Salahuddin Mughal was posted as Secretary Sindh Workers Welfare Board (SWWB) and accused Syed Muhammad Irfan was working as Welfare Officer with/under him. SWWB received a sum of Rs.31,500,000/- as grant fund for "Jahaiz" of workers of Private Industrial Sector at the rate of Rs.20,000/- per worker. Accused Salahuddin Mughal

in the capacity of Secretary SWWB invited applications through newspaper "Nawa-e-Waqat" dated 16.09.2000. Accused Syed Muhammad Irfan was made Incharge by the accused Salahuddin Mughal to scrutinize the applications of workers for the subject grant as per conditions of admissibility. In response to the said advertisement / publication, 5741 applications were received from 132 Industrial Enterprises, which were required to be scrutinized through a four member committee constituted by the Board. However, the preliminary scrutiny was carried out by the accused Syed Muhammad Irfan and a note was placed by him to the Secretary accused Salahuddin Mughal fixing the date of meeting of Scrutiny Committee. Accordingly, committee held its first meeting on 09.04.2001, which was attended by all the members and it was decided to get applications verified from the concerned Industrial Enterprises. All the applications were sent for scrutiny to various Industries and confirmation letters or otherwise were received. The second meeting of the Committee was held on 07.05.2001, wherein the Committee observed that a total 4694 applications were valid against 1575 available grant cheques of Rs.20,000/- each. Therefore, it was decided to hold the ballot through computer. Accordingly, the computer ballot was held on 13.06.2001 and names of successful candidates were declared. Cheque distribution ceremony was held on 30.06.2001, where 200 cheques were distributed amongst the successful workers in the presence of representative of Factories and Worker Unions. The other cheques were distributed subsequently during the month of July and August 2001. During investigation, it was found that out of 1575 applications from various factories 288 employees were **not** found genuine workers, however, cheques were distributed in their names. **The amount of 288 bogus/ghost employee comes to Rs.57,60,000/- which was misappropriated by all the accused persons.** Investigation further reveals that the **Scrutiny Committee did not scrutinize the credentials of applicants appropriately but due to their gross negligence, 288 cheques were not delivered to the entitled bonafide workers instead these cheques were deposited in the account No.010-2185-1, 101-1630-1, 101-1180-1 and 101-0211-1 which were operated by the accused Ghulam Mustafa Sheikh, Muhammad Anis and Zafar Iqbal. As per rules and procedures these cheques could not have been deposited in the accounts of accused Ghulam Mustafa Shekih, Muhammad Anis and Zafar Iqbal, deceased**

accused Muhammad Shoaib Wasti and accused Syed Muhammad Wasim, these cheques were deposited in the said accounts. A sum of Rs.29,40,000/- was withdrawn by the accused accounts, on various dates during July to September, 2001.

3. It is further stated that it has been confirmed from the factories that 288 persons were not the employees of any factory; however cheques were issued in their names. Out of 288, 11 such fictitious forms were prepared by the deceased accused Mumtaz Ahmed, Labour Officer for M/s. Globe Textile Mills (Pvt.) Landhi, Karachi. He also signed false verification letters on behalf of the management and signed cheques distribution register. The deceased accused Mumtaz Ahmed also received 46 cheques on various dates during June and July 2001 from the management of Worker Welfare Fund and **instead of handing over to the concerned workers, deposited the same in the account of accused Ghulam Mustafa Sheikh, Muhammad Anis and Zafar Iqbal.** Accused Salahuddin Mughal, Syed Muhammad Irfan, Madad Ali Sheikh, Muhammad Shaoib Wasti (deceased) and Syed Muhammad Wasim in connivance and collusion with co-accused Ghulam Mustafa Sheikh, Muhammad Anis, Zafar Iqbal and Mumtaz Ahmed (deceased) misappropriated the sum of Rs.57,60,000/- of Workers Welfare Fund. Accused persons in connivance and collaboration with each other fraudulently and dishonestly misappropriated an amount of Rs.57,60,000/- from Workers Welfare Fund by processing fake claims and misusing crossed cheques and thus by corrupt, dishonest or illegal means obtained pecuniary advantage for themselves. Further, the accused Salahuddin Mughal and Syed Muhammad Irfan misused their authority to gain benefit for themselves and for other co-accused persons and willfully failed to exercise their authority to prevent the grant of undue benefit. The accused persons thereby committed the offence of corruption and corrupt practices as defined in Section 9(a)(iii)(iv)(v) and (xii) of National Accountability Ordinance, 1999 (NAO) and forgery under Section 468/471 PPC, punishable under Section 10(a) of Ordinance and Schedule thereto.

4. After filing of the reference referred to earlier in this order and after a full blown trial the appellants were convicted and sentenced by the Judgment as set out earlier in this order.
5. Learned counsel for the appellant's have now all filed applications under S.426 Cr.PC.
6. Learned counsel for the appellant Salahuddin Mughal submitted that there was no direct evidence against him; that he did not check whether the applicants were genuine or not since this was not his responsibility and that genuineness certificates had not been issued by him but by another accused who had now died; that no amount had been paid into his account; that he was being blamed simply because he happened to be secretary of the SWWB; that he was 68 years old and a cardiac patient and was currently admitted in the NICVD due to the seriousness of his illness; that he has a strong case on appeal and was prepared to put up solvent security and thus he contended that his application under S.426 Cr.PC should be allowed.
7. Learned counsel for the appellant Muhammad Irfan submitted that he had been charged with connivance and no evidence of connivance had come on record; that he had been convicted on the basis of an impression that he had applied to NAB for a Voluntary Return (VR) under S.25 NAO when in fact there was no material on record to show that he had ever applied for a VR and more importantly this aspect of the case had not been put to him whilst recording his S.342 statement; that the only alleged PW against him was PW 27 but he was declared hostile and had not given any incriminating evidence against him; that he has a strong case on appeal and was prepared to put up solvent security and thus he contended that his application under S.426 Cr.PC should be allowed. In support of his contentions he placed reliance on **Abdul Lateef Brohi V. National Accountability Bureau(NAB) through Director General** (2014 P Cr. LJ 1334)
8. Learned counsel for the appellants Madad Ali Sheikh and Zafar Iqbal submitted that there's was a case of hardship as the inquiry and trial had gone on for 18 years; that there was no evidence against either of them; that they were junior bank officials; that the total amount involved was only RS 57 lacs; that both the appellants had a strong case on appeal and were both

prepared to put up solvent security and thus he contended that his application under S.426 Cr.PC should be allowed. He placed reliance on **Inayatullah Ansari and 2 others V. The State** (PLD 2014 Sindh 95), **Mirza Ashfaq Ahmed and others V. The State and another** (2013 Y L R 328), **Khan Muhammad Mahar V. The State** (2003 SCMR 22) and **unreported case i.e. Cr. Acct. Appeal No.05 of 2017**.

9. Learned counsel for the appellants Ghulam Mustafa Shaikh and Mohammed Anis submitted that they had nothing to do with the scam and that there was no evidence against them; that their accounts had been misused by the bank officials to deposit and withdraw funds which was not within their knowledge; that both the appellants had a strong case on appeal and were both prepared to put up solvent security and thus he contended that their applications under S.426 Cr.PC should be allowed.

10. Learned counsel for the appellant Syed Muhammed Wasim submitted that no PW had given evidence against him; that the enquiry report relied upon was not produced by its author; that he had not been confronted with the enquiry report at the time of recording his S.342 statement; the fact that he had not confronted any witness in respect of the inquiry report did not mean that the enquiry report was to be automatically accepted as the truth as this was a civil law concept and not a criminal law concept; that he had been convicted for only 7 years which was a short sentence; that he was suffering from a serious medical condition; that he has a strong case on appeal and was prepared to put up solvent security and thus he contended that his application under S.426 Cr.PC should be allowed. He placed reliance on **Muhammad Saddique V. The State** (2018 SCMR 71), **Nadeem Ramzan V. The State** (2018 SCMR 149) **Messrs Shadab Developers through partner V. Mehboob Hussain alias Mehboob-ur-Rehman through Attorney** (2017 Y L R Note 23), **Inayatullah Ansari and 2 others V. The State** (PLD 2014 Sindh 95), **Abdul Lateef Brohi V. National Accountability Bureau through Director General** (2014 P Cr. LJ 1334) and **Mirza Ashfaq Ahmed and others V. The State and another** (2013 Y L R 328).

11. On the other hand, learned special prosecutor NAB submitted that the applications under S.426 Cr.PC were not maintainable as S.9 (b) NAO had expressly excluded such

applications and even otherwise strongly opposed the applications under S.426 Cr.PC in respect of each of the appellants since there was sufficient evidence on record to justify both their convictions and sentences.

12. With regard to the appellants Salahuddin Mughal and Muhammad Irfan who were Secretary and Welfare officer of SWWB respectively the special prosecutor for NAB relied on the statement of PW1 which connected them to illegally allowing ghost employees to be a party to the balloting; that with regard to appellants Mohammed Wasim and Madad Ali Shakh he submitted that they were the bank manager and computer operator at UBL Branch Landhi who had allowed crossed cheques to be paid into accounts which had nothing to do with the payee namely appellants Mohammed Iqbal (private bank account holder at UBL), Ghulam Mustafa Shaikh and Mohammed Anis both of whom worked at EPZA as a cashier and stenographer respectively and had no right to receive such payments in their accounts which payments were illegally put into their account and withdrawn with their knowledge and as such the evidence showed that the appellant members of SWWB, the private appellants who worked at the bank and the appellant account holders whose accounts the funds in respect of ghost employees had been paid into were all in league with each other. In support of his contentions he referred to various statements of PW's and submitted that all the applications under S.426 Cr.PC should be dismissed as there was substantial evidence on record to justify there convictions and sentences.

13. We have considered the arguments of the parties, gone through the record with the able assistance of the learned counsel and considered the case law cited at the bar.

14. All the appellants have applied for the suspension of their sentence pending appeal under S.426 Cr.PC and to be enlarged on bail pending the final decision on their appeals. As such we consider that it would be of assistance to set out the above mentioned section below which provides as under:

426. Suspension of sentence pending appeal. Release of appellant on bail (1) Pending any appeal by a convicted person, the Appellate Court may, for reasons to be recorded by it in writing, order that the execution of the sentence or order appealed against be suspended and,

also, if he is in confinement, that he be released on bail or on his own bond.

(1A) An Appellate Court shall, except where it is of the opinion that the delay in the decision of appeal has been occasioned by an act or omission of the appellant or any other person acting on his behalf, order a convicted person to be released on bail who has been sentenced---

- (a) to imprisonment for a period not exceeding three years and whose appeal has not been decided within a period of six months of his conviction;
- (b) to imprisonment for a period exceeding three years but not exceeding seven years and whose appeal has not been decided within a period of one year of his conviction; or
- (c) to imprisonment for life or imprisonment exceeding seven years and whose appeal has not been decided within a period of two years of his conviction.

Provided that the provisions of the foregoing paragraphs shall not apply to a previously convicted offender for an offence punishable with death or imprisonment for life or to a person who, in the opinion of the Appellate Court, is a hardened desperate or dangerous criminal or is accused of an act of terrorism punishable with death or imprisonment for life.

(2) The power conferred by this section on an Appellate Court may be exercised also by the High Court in the case of any appeal by a convicted person to a Court subordinate thereto.

(2-A) Subject to provisions of section 382-A when any person other than a person accused of a non-bailable offence is sentenced to imprisonment by a Court, and an appeal lies from that sentence, the Court may, if the convicted person satisfies the Court that he intends to present an appeal, order that he be released on bail, for a period sufficient in the opinion of the Court to enable him to present the appeal and obtain the orders of the Appellate Court under subsection (1) and the sentence of imprisonment shall, so long as he is so released on bail, be deemed to be suspended.

(2-B) Where a High Court is satisfied that a convicted person has been granted special leave to appeal to the Supreme Court against any sentence which it has imposed or maintained, it may, if it so thinks fit order that pending the appeal the sentence or order appealed against be suspended, and also, if the said person is in confinement, that he be released on bail.

(3) When the appellant is ultimately sentenced to imprisonment, or imprisonment for life the time during which he is so released shall be excluded in computing the term for which he is so sentenced.(bold added)

15. As can be seen S.426 divides into essentially 2 parts (a) On merits and (b) where there has been an element of statutory delay as specified in the section.

16. It has not been brought to our attention nor are we aware that any of the appellants are previously convicted offenders for an offence punishable with death or imprisonment for life or are hardened desperate or dangerous criminals. It has also not been brought to our attention that any of the appellants have applied for leave to appeal.

17. Thus, in our view since there has been no delay in hearing the appeals we have to decide whether S.426 based purely on merits is applicable to the cases in hand.

18. Some General Principles governing the application of S.426 simplicitor i.e. without any delay.

(a) This is a **discretionary ground** and only a tentative assessment of the evidence may be made; not a deeper appreciation and in no case can the court go into the merits of the case as this may prejudice the out come of the appeal which will be decided after a full blown appellate hearing. In this respect reliance is placed on **Raja Shashad Hussain V Gulraiz Akhtar** (PLD 2007 SC) and **Manzoor Ahmed V Fazal Ahmed** (2013 SCMR 1403)

(b) That the sentence could not be suspended under S.426 Cr.PC unless it was shown that the conviction was based on no evidence **and** that there was no ultimate possibility of the conviction being sustained. In this respect reliance is placed on **Makhdoom Javed Hashmi V The State** (2007 SCMR 246)

19. Turning firstly to the question of maintainability. We are of the view that S.426 Cr.PC is applicable to NAB cases notwithstanding S.9 (b) NAO. S.426 can be applied in the constitutional discretionary jurisdiction of this Court under A.199 read with S.426 and S.561 (A) Cr.PC. Suspension of sentence and bail pending the disposal of appeal has been granted by many high courts including the Supreme Court. Reliance in this regard is placed on **Inayatullah Ansari's case** (Supra)

20. All the appellants have been given sentences ranging from 7 to 10 years which in our view cannot be considered as short sentences in the context of a conviction under the NAO where the maximum sentence is 14 years. In **Mirza Ashafaq Ahmed's case** (Supra) relief under S.426 was exceptionally allowed when the sentence was for 7 years on the basis that the accused were ladies and persons of advanced age. None of these factors are present in this case. In our view a sentence of less than 5 years may amount

to a short sentence when an accused is convicted under the NAO bearing in mind the seriousness of the offense of corruption but based on the facts and circumstances of this case where there has been no delay and none of the appellants has spent a day in jail prior to their conviction and each appellant has been convicted for either 7 or 10 years we are of the view that these are not short sentences. In this respect we are of the view that the case of **Abdul Hameed V Muhammed Abdullah** (1999 SCMR 2589) is the more relevant authority for short sentences being 5 years or less especially in NAB cases which are of a heinous nature. Since all the appellants' have only spent approximately 3 months in jail it also cannot be said that they have served out a major portion of their sentence and due to a back log in hearing appeals their appeals are no where in sight of being heard hence the case of **Khan Muhammed Mahar** (Supra) is distinguishable. This is not a case of hardship as the appellants have only spent approx 3 months in jail and it is not a case where any delay in hearing their appeal has arisen as is apparent from the record. **Ghulam Hussain Sammo's case** (Supra) is also of no assistance to the appellants as in that case the appellant had already spent 2 years in custody and his appeal had not been heard. As mentioned above the appellants have only spent approximately 3 months in custody.

21. Having examined the material on record in a very tentative manner without going into a deep appreciation of the same it appears that there prima facie **may** be some defects in the prosecution case in respect of not putting incriminating material to some of the appellants during their section 342 statements; the non exhibiting of certain documents such as the cheques in issue; evidence concerning who was responsible for scrutinizing the applicants for the ballot. It cannot however be said that the conviction was based on no evidence or completely inadmissible evidence when read tentatively with all the other evidence in the case in a holistic manner and as such prima facie the applications deserve to be dismissed on the principles applicable to the grant of relief under S.426. In this regard reference is made to **Muhammed Sallem V The State** (PLD SC 2006 SC 483) and **Makhdoom Javed Hashmi's case** (Supra)

22. We have also observed that this is a NAB case and the appellants were convicted under the NAO and as such their crimes

are heinous as they are crimes of corruption and cannot be condoned or belittled under any circumstances. However we have also been mindful of the fact that there may be some procedural irregularities but **most importantly** from our perspective the NAO is meant to deal with cases of mega corruption running into billions of rupees. In this case however the **total loss is RS 57 lacs** which even if divided 7 ways for each of the appellants would lead to a total liability of just over RS 8 lacs each. **Keeping this main factor in mind**, the fact that the appellants have been put through the agony of a prolonged trial, that none of them absconded during the course of the trial, their appear to be some irregularities during trial, that their counsel appear genuinely willing to proceed with their appeals as soon as possible and thus based on the particular facts and circumstances of this case which we find rather **exceptional** we hereby suspend the sentences of all the appellants and enlarge all the appellants on bail pending final disposal of their appeals **subject to the following conditions** (a) that the appellants Salahuddin Mughal and Syed Muhammed Irfan deposit RS 1,500,000 (fifteen lacs) and appellants Madad Ali Shaikh, Syed Muhammed Wasim, Ghulam Mustafa Shaikh, Muhammed Anis and Zafar Iqbal deposit RS 700,000 (Seven lacs) with the Chairman NAB which shall be placed in an interest earning government bank account until the outcome of their appeals (b) **each** of the appellants shall furnish solvent security in the sum of RS 1,000,000 (ten lacs) with PR bond in the like amount to the satisfaction of the Nazir of this court and (d) that the names of each of the appellants be placed on the ECL till final disposal of their appeals against conviction.

23. **All these criminal appeals against conviction (06, 07, 08, 09, 10 and 11 all of 2018) shall be fixed by the office in the appellate roster of this court hearing final appeals to come up at 11am on 11-09-2018 when the appeals shall be proceeded with and decided and in the event that any of the counsel for the appellants are not prepared to proceed on that date the bail granted to the concerned appellant by this order shall stand automatically recalled.**

24. The office is directed to prepare the paper books within 7 days of the date of this order at the expense of the appellants (if it has not already done so).

25. A copy of this order shall also be transmitted to the Secretary Ministry of Interior who is directed to immediately place all the appellants named in this order on the ECL. MIT shall submit a compliance report in this regard within two weeks of the date of this order and then put the matter up in court after 3 weeks of the date of this order.

26. It goes without saying that the observations made in this order, or the fact that the applications have been allowed, shall have no bearing on the outcome of the appeals which shall be decided on merits based on the evidence on record.

27. These are the reasons for our short order dated 14-06-2018 which is set out below:

“For reasons to be recorded later we hereby suspend the sentences of all the appellants named above and enlarge all the appellants on bail pending final disposal of their appeals against conviction under S.426 Cr.PC **subject to the following conditions** (a) that the appellants Salahuddin Mughal and Syed Muhammed Irfan deposit RS 1,500,000 (fifteen lacs) and appellants Madad Ali Shaikh, Syed Muhammed Wasim, Ghulam Mustafa Shaikh, Muhammed Anis and Zafar Iqbal deposit RS 700,000 (Seven lacs) with the Chairman NAB which shall be placed in an interest earning government bank account until the outcome of their appeals (b) **each** of the appellants shall furnish solvent security in the sum of RS 1,000,000 (ten lacs) with PR bond in the like amount to the satisfaction of the Nazir of this court and (d) that the names of each of the appellants be placed on the ECL till final disposal of their appeals against conviction.

2. All these criminal appeals against conviction (06, 07, 08, 09, 10 and 11 all of 2018) shall be fixed in the appellate roster of this court to come up at 11am on 11-09-2018 when the appeals shall be proceeded with and decided and in the event that any of the counsel are not prepared to proceed on that date the bail granted to the concerned appellant by this order shall stand automatically recalled.

3. A copy of this short order shall be transmitted by fax to the Secretary Ministry of Interior Government of Pakistan

who is directed to immediately place all the appellants named in this order on the ECL.MIT shall submit a compliance report in this regard within two weeks of the date of this order and then put the matter up in court after three weeks of the date of this order".