

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.

Cr. Appeal No. D — 178 of 2006.

DATE	ORDER WITH SIGNATURE OF JUDGE
<u>25.05.2017.</u>	

FOR REGULAR HEARING

Appellant Ali Muhammad is called absent.

Syed Meeral Shah Bukhari, Addl. P.G. for the State along
with Excise Inspector Piyaro Khan D.I.B. Hyderabad.

Appellant Ali Muhammad was tried by learned Special Judge CNS Hyderabad, in Special Case No.98 of 2005, for offence under section 9(c) Control of Narcotic Substance Act 1997. Vide Judgment dated 17th August 2006, appellant was convicted under section 9(c) Control of Narcotic Substance Act 1997, and sentenced to 05 years R.I. and to pay the fine of Rs.50,000/-. In case of default in payment of fine he was ordered to suffer S.I. for 06 months more. Benefit of Section 382-B Cr.P.C. was extended to the appellant.

Appellant filed instant appeal bearing Criminal Appeal No.D-178 of 2006 on 11.09.2006. The same was admitted for regular hearing vide order dated 19.10.2006. During the pendency of the appeal, appellant applied for suspension of sentence under section 426 Cr.P.C. and this Court suspended his sentence vide order dated 08.11.2006, as a result of which, the appellant was released on bail but after release from Jail he never appeared before this Court. In the first instance, notices were ordered to be issued against appellant and his surety but they didn't appear. Thereafter, N.B.W. was also issued against the appellant vide order dated 12.04.2016, but the same were returned un-executed by Excise Inspector Piyaro Khan with the endorsement that the appellant has concealing himself and he has shifted to unknown place.

Learned A.P.G. submits that appellant has become fugitive from the law. The law is settled that a fugitive from law loses his right of audience before a court, as held by Honourable Supreme Court in the case of **Ikramullah v. State** (2015 SCMR 1002), relevant portion of the same is reproduced as under:-

“A report dated 11.12.2014 has been received from the Superintendent, Central Prison, Bannu informing that Adil Nawab appellant had escaped from the said jail during the night between 14/15-4-2012 and he has become a fugitive from law ever since. The law is settled by now that a fugitive from law loses his right of audience before a court. This appeal is, therefore, dismissed on account of the above mentioned conduct of the appellant with a clarification that if the appellant is recaptured by the authorities or he surrenders to custody then he may apply before this Court seeking resurrection of this appeal.”

In the view of above circumstances, it appears that appellant has become fugitive from the law after release on bail as a result of suspension of his sentence. The appeal is, therefore, dismissed on account of the above mentioned conduct of the appellant with a clarification that if the appellant is recaptured by the concerned police or he surrenders to custody then he may apply before this Court seeking resurrection of this appeal.

Before parting with order, we ordered that so far action against the surety is concerned the same shall be continued as already directed by this court.

JUDGE

JUDGE

A.