

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

Cr.Appeal No. S- 51 of 2014

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection.
2. For hearing of MA 2692/2014.

12.9.2014

Mr. Muhammad Hashim Leghari, advocate for appellant.
Mr. Mushtaque Ahmed Abbasi, D.D.P.P.

ABDUL MAALIK GADDI – J. By this order, I intend to dispose of application under Section 426 Cr.P.C. moved by appellant Mithoo alias Thanwar in Crime No. 31 of 2013 of police station Badin. The appellant was convicted by learned Sessions Judge, Badin on 15.2.2014 under Section 395 PPC for a term of four years R.I and fine of Rs.50,000/-. In default of payment of fine the appellant was also required to serve six months more. He was also extended benefit of Section 382-B Cr.P.C. by the trial court.

Learned counsel for appellant has contended that it is a short sentence and due to heavy work load the appeal is not likely to be taken up in near future, therefore, the convicted appellant seeks suspension of sentence. Learned counsel further contended that all the three co-accused have already been granted bail by this Court, therefore, on the rule of consistency also, the present appellant is entitled for the same relief. In support of his contention, learned counsel has relied upon the case of NAZEER ALI V. THE STATE (2011 YLR 403) wherein the punishment of 05 years was awarded, however, looking to the short sentence the appellant was granted bail. Next referred citation is 2007 P.Cr.L.J. 1035 SHAUKAT MEHMOOD V. THE STATE, which citation is also relevant to the short sentence, wherein accused was convicted for 05 years and he remained in jail for more than one year and his sentence was suspended. Reliance was placed on 1999 SCMR 2589 ABDUL HAMEED V. MUHAMMAD ABDULLAH, wherein the appellant was convicted for three years, whose sentence

was enhanced to five years by the appellate Court, however, the Honourable Supreme Court has suspended the sentence being short. Another citation is 2008 MLD 312 ILYAS V. STATE, in this case also accused was convicted for five years, which being short sentence and the accused was granted bail on the ground of delay in proceeding of the appeal.

Learned D.D.P.P. in view of above stated facts and on the rule of consistency as well as the case law relied upon by learned counsel for the appellant has not opposed this application.

I have heard the learned counsel for the parties and perused the record.

Admittedly, the appellant is behind bars for last 19 months. He was awarded short sentence as stated above. Due to heavy work load this appeal is not likely to be taken up in near future. Co-appellants Zafar, Moolchand and Allahdino have already been granted bail by this court under Section 426 Cr.P.C. vide order dated 26.3.2014 and 02.09.2014 in Cr. Appeal Nos. 27, 29 and 33 of 2014, therefore, following the rule of consistency this appellant is also entitled for the same relief. I accordingly in view of no objection extended by learned D.D.P.P and considering the case law relied upon by the learned counsel for the appellant, allow this application and suspend the sentence of the appellant Mithoo alias Thanwar. Resultantly, the appellant is admitted to bail, he shall be released forthwith if not required in any other case subject to his furnishing solvent surety in the sum of Rs.1,00,000/- (One lac) and PR bond in the like amount to the satisfaction of Additional Registrar of this Court.

Before parting with this order, I would like to make it clear that only the sentence being short is suspended and the matter as to conviction will be decided at the time of disposal of this appeal, therefore, this order will not affect the hearing of appeal.

With these observations, the instant application stands disposed of.

JUDGE

Tufail