

ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI  
**CP No.D-6767/2019**

Date	Order with signature of Judge
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1. For hearing of CMA No.13527/2020 (stay)
2. For hearing of main case.

**26.08.2020**

Petitioner present in person.  
Mr. Jawwad Dero, Addl. A.G, Sindh.  
Mr. M. Iqbal Awan, Addl. P.G, Sindh.  
Mr. Muhammad Nadeem Khan, Assistant Attorney General.  
Mr. Muhammad Hassan Sahito, Sr. Superintendent Central Prison.  
Mr. Kamal Hussain Shah, Deputy Superintendent Central Prison.  
Mr. G. R. Siyal, DSP Investigation.

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According to the brief facts of this constitution petition the detenu Imran Ali Khan was in jail in a murder case under crime **No.449/2012** registered at P.S North Nazimabad, Karachi. He was acquitted by the XVIth ATC Karachi on **18.10.2019**. Release writ was issued, however, despite the release writ issued by the competent Court Respondent No.4/ Sr. Superintendent Jail, Mr. Muhammad Hassan did not release the detenu as alleged by the petitioner in para-4 of the petition reproduced below:-

4. That the detainee is behind the Jail since last 06 months and he was acquitted/released from ATC Court No.16 on 18.10.2019. The whole family of detainee were present in Jail from morning to till 10-00 p.m. but the jail authority could not hand over the detainee to the Petitioner.

The petitioner (wife of the detenu) has immediately lodged a complaint to the SHO New Town Police Station in whose jurisdiction the central prison is situated and failing to get any response, on **22.10.2019** that is to say within four days, she filed the instant petition on account of non-release of the detenu from the Central Jail. The notices were issued to all the Respondents including Respondent No.4. The Superintendent of jail, Mr. Mohammad Hassan has informed the Court that on **21.11.2019** he had filed comments

but the same are not in Court file. Learned Addl. A.G Sindh states that a copy of undated comments are lying in the file of Advocate General office. However, the said comments available in the File of Addl. A.G, Sindh could not come on Court File on **21.11.2019**, may be for the reason that on the said date the case was adjourned on account of non-appearance of the Petitioner and her counsel. Be that as it may, the author of the comments Mr. Muhammad Hassan Sr. Superintendent present today has provided copy of the said comments and confirmed that it bears his signature. These comments shows release of 20 different prisoners from jail on **18.10.2019** and name of detainee is mentioned at Serial No.11 with reference to order of acquittal in Crime No.449/2012 by the Court of XVI-ATC, Karachi. However, when inquired by the Court that why there is no CCTV footage of the released prisoners going out of the premises of the jail, he informed the Court that because such CCTV footage is kept by the Authorities of Central Prison for only two months.

He admits that there is two months' time to keep the record of CCTV footage and from his own statement the comments were filed within one month that is on **21.11.2019**, therefore, being a Senior Police Officer he should knew this being a sensitive case there should have been little more evidence than mere gate pass to exonerate him from the allegation of illegally detaining the detainee or having not released him despite release order. He has not been able to give any explanation to this Court that why he has not retained CCTV footage despite the fact that he had come across the information within one week that one of the gate pass has not been utilized or the detainee has not crossed the gate. This is one aspect of the case in which the prima facie, it is established that the Senior Superintendent Central Prison has not released the detainee. The other aspect of the case is

that in missing persons cases an officer of police at the level of DSP is supposed to be an Investigation Officer and DSP investigation has also filed comments today after almost one year of pendency of this petition. The most pathetic part of the performance of police is that the SOP to handle the missing person case issued from the office of I.G Sindh dated **02.10.2013** has been ignored with impunity. Not a single step for the investigation provided in this SOP has been followed by the DSP present in Court and earlier DSPs, who were handling the instant case.

To be very precise the brief provided to the DSPs handling missing person case, the following steps have to be taken one by one:-

- i. Prepare memo of inspection
- ii. Recorded 161 statement of 1. XXXX 2. XXXX 3. XXXX
- iii. CCTV Cameras installed near place of offence
- iv. CCTV recoding Obtain or Not
- v. CDR Obtain or Not
- vi. Detail of Passport
- vii. Detail of CNIC
- viii. Status of Bank Accounts
- ix. Status of Credit Cards
- x. Travel History from FIA
- xi. Letters to All Prison of Pakistan reply received or Not
- xii. Letters to All LEAs reply received or Not
- xiii. Letters to Major Hospitals
- xiv. Identify dead body from CPLC
- xv. Dead body details from Edhi / Chipa
- xvi. Vehicle record from Excise & Taxation Record
- xvii. Driving License Made or Nor
- xviii. DNA Test Examine or Not
- xix. Commission details
- xx. Publication in Print and Electronic Media
- xxi. More details if any ....

The report submitted today by the DSP suggests that he has been disrespectful towards the directions given by the I.G Sindh Karachi. He has not prepared memo of inspection, nor obtained CCTV Footages or even CDR.

In view of the above facts, before we proceed further with this case, we recommend I.G Prisons, Sindh should immediately suspend

Mr. Muhammad Hassan Sahito, Senior Superintendent Central Prison Karachi pending the inquiry that why he has not released the detenu despite the release writ from the competent Court. The I.G Prisons, Sindh is directed to look into each and every information given in this case by the petitioner and the comments and documents attached by the Senior Superintendent of Central Prison with his comments while issuing show cause notice after suspending Senior Superintendent Central Prison Karachi. In the like manner, we direct I.G Sindh to hold or ensure to be held an inquiry against the different SDPOs who have been assigned the inquiry in the instant petition but they have failed to follow the SOP for locating this person who has been in the custody of police officer in different criminal cases and has gone missing while in their official custody. It goes without saying that at least in this particular case police officers are not pointing towards any Federal Government Agencies for missing or kidnapping of the detenu Imran Ali Khan. Therefore, serious action should be taken by the I.G. Sindh and I.G Prisons, Sindh for the willful failure of their staff for treating the detenu in accordance with law and protect his life and liberty as envisaged under **Article 4** of the Constitution of Islamic Republic of Pakistan. This case is adjourned only for **10** days to ensure the recovery of the detenu by the DIG East, from whose jurisdiction the detenu is missing since the place of incident is Central Prison, Karachi. In the meanwhile a report of actions taken by the I.G, Prisons, Sindh and I.G Sindh Police against the Senior Superintendent of Central Prison and Investigating Officers should be placed before this Court for perusal in Chamber through MIT-II.

To come up on **07.09.2020**.

JUDGE

JUDGE