

ORDER SHEET  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
Criminal Accountability Appeal No.04 of 2022

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Date	Order with signature of Judge
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1. For hearing of MA No.2647/2022.
2. For hearing of main case.

12.9.2022

Mr. Haq Nawaz Talpur, Advocate for Appellant along with Mr.  
Muhammad Asad Ashfaq Tola, Advocate

Mr.R.D. Kalhoro, Special Prosecutor NAB  
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It appears that the Appellant had impugned order dated 27.01.2022 passed by the Accountability Court No.1 Sindh Karachi. On 10.02.2022 while admitting the Appeal, notice was ordered on the application at Serial No.1 filed under section 426 Cr.P.C, for suspension of the sentence pending final decision on the Appeal.

Today, learned Counsel for the Appellant submits that Appellant has almost served his sentence, whereas, the Appeal is not likely to be heard and decided in near future; hence, the application be granted by suspending the sentence and impugned judgment.

It appears that the Appellant was convicted by way of judgment dated 27.01.2022 passed by the Accountability Court No.1 Sindh Karachi, in Reference No.40/2005 in the following terms:-

*“Point No.4 Accused Habib Ahmed Khan is convicted u/s 10 of the NAO 1999 and sentenced to undergo R.I. for 4(four) years and fine of Rs.10 (ten) million. In case of default in payment of the fine, he shall suffer a one year more.”*

Through application at serial No.1 the Appellant seeks suspension of the impugned judgment on the ground that the sentence is only of four years, whereas, the Appellant has already been in custody for approximately two and a half years. On perusal of the record including the Jail Roll the contention of the Appellants Counsel appears to be correct. This Appeal is pending since 07.02.2022 and has not been taken up for regular hearing, whereas, due to pendency of a number of other cases, it is not likely to be taken up in near future. On the other hand the sentence is of 4 years, which is a short sentence, and out of which the Appellant has already served two and a half years.

Learned Special Prosecutor NAB has opposed the grant of this Application on the ground that it is not the practice in this Court to grant such applications; and instead the Appeal be heard and decided. However, we are not inclined to agree with his contention, whereas, pursuant to amendment in Section 32 of the NAB Ordinance, 1999, the provision of Section 426 Cr.P.C. is now applicable to the cases of convicts under the NAB Ordinance, and therefore this Court can exercise such powers in NAB cases as well.

In view of such position since the sentence awarded to the Appellant is short and possibility of hearing of this Appeal, in the wake of huge backlog of cases, in near future is farsighted, therefore, following the dicta laid down by the Hon'ble Supreme Court, in the case reported as ***Abdul Hameed v. Muhammad Abdullah*** (**1999 SCMR 2589**), the Application bearing CMA No.2647 of 2022 listed at Serial No.1 merits consideration and is accordingly allowed by suspending the sentence of the Appellant awarded by the learned Trial Court in the above crime as recorded in **Point No.4** of the impugned judgment till final hearing of this Appeal by admitting the Appellant namely ***Habib Ahmed Khan s/o Latif Ahmed Khan*** to bail on his furnishing solvent surety in the sum of Rs.500,000/- and P.R. Bond in the like amount. The Appellant shall also furnish surety for the amount of fine as mentioned in the impugned judgment to the satisfaction of the Nazir of this Court.

Application at Serial No.1 stands disposed of.

JUDGE

JUDGE

Amjad, PA.