

ORDER SHEET
**IN THE HIGH COURT OF SINDH
CIRCUIT COURT HYDERABAD**

Criminal Appeal No.S-48 of 2022
Criminal Appeal No.S-49 of 2022
Criminal Appeal No.S-50 of 2022
Criminal Appeal No.S-51 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGE
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For hearing of MA No.3511 / 2022
(Criminal Appeal No.S-48 of 2022)

For hearing of MA No.3529 / 2022
(Criminal Appeal No.S-49 of 2022)

For hearing of MA No.3526 / 2022
(Criminal Appeal No.S-50 of 2022)

For hearing of MA No.3532 / 2022
(Criminal Appeal No.S-51 of 2022)

For hearing of main case.

08-06-2023

Raja Jawad Ali Saahar, advocate for appellants.

Mr. Shabbir Hussain Memon, advocate for complainant.

Mr. Nazar Muhammad Memon A.P.G. Sindh.

By impugned judgment, appellants have been convicted, amongst others, under sections 324, 337-D, 337-F (iii), 337-F (iv) PPC to suffer different sentences and to pay a certain amount as Daman and Arsh. Appellant Sadam Hussain has been awarded maximum sentence of ten years under section 337-D PPC and has been saddled with responsibility to pay Arsh equivalent to the 1/3rd of Diyat amount for causing injuries to victim Allah Warayo; whereas, remaining appellants namely, Noor Muhammad and Abdul Jabbar have been awarded maximum sentence of seven years under sections 324 PPC and to pay Arsh. The appellants have been separately awarded sentence of 7 years for offence under section 25-A of Sind Arms Act, 2013.

2. Jail Roll dated 23.05.2023 shows that appellants namely Noor Muhammad and Abdul Jabbar have served out nine years, ten months and eleven days including remission and appellant Saddam Hussain has served out ten years, five months and twenty days including remission.

3. By a very simple calculation, it is clear that all the appellants have already suffered the entire sentence. And they are in jail either on account of non-payment of Arsh/Daman or since in the cases of recovery of weapons under section 25-A Sindh Arms Act, 2013, they have been convicted and sentenced separately to suffer additional seven years, which is being calculated by the Jail authorities as consecutive and not concurrent. Learned counsel for the appellants has drawn attention to the case of Rahib Ali v. The State [2018 SCMR 418] and submits that this issue has been settled by the Supreme Court in this case and it has been laid down that the sentence even given to an accused in different cases would be counted concurrent. If the same principle is applied in the case of appellants, they would be released on having served entire sentence.

4. In view of the above factual position, learned A.P.G. Sindh and learned counsel for complainant say that heavy surety may be imposed upon the appellants against release on bail because apart from term of sentence, they have also been directed to pay Arsh, Daman and Diyat amount.

5. Accordingly, in view of above facts and circumstances, the applications under section 426 CrPC are allowed. The sentences of the appellants are hereby suspended and they are granted bail subject to furnishing a solvent surety in the sum of Rs.500,000.00 [Rupees five hundred thousand only] each and PR bond in the like amount in Criminal Appeal No.S-48 / 2022 and Rs.100,000.00 [Rupees one hundred thousand only] each and PR bond in the like amount to the satisfaction of Additional Registrar of this Court in Criminal Appeal Nos.S-49, 50 & 51 of 2022.

6. Miscellaneous Applications Nos. 3511/2022, 3529/2022, 3526/2022 and 3532/2022 in above captioned appeals stand allowed.

The appeals are adjourned to **10.07.2023.**

JUDGE