

## **IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR**

Crl. Appeal No. S- **26** of 2021

- 1.For orders on MA 3913/2022
- 2.For orders on MA 3914/2022
- 3.For orders on MA 1012/2022
- 4.For hearing of MA 1013/2022
- 5.For orders on MA 1910/2022
- 6.For hearing of main case

Mr. Ghulam Shabeer Shar, Advocate for the appellants.  
Mr. Muhammad Ali Dayo, Advocate for complainant.  
Mr. Aftab Ahmed Shar, Additional P.G for the State.

Date of Hearing & Order: **20-11-2023**

### **ORDER**

**MUHAMMAD IQBAL KALHORO, J.:-** Applicant/appellant Ameer Ali convicted and sentenced to imprisonment for life along with co-appellants for committing offence under section 302 PPC, amongst others, by impugned judgment dated 08.03.2021, passed in sessions case No.357 of 2018 arising out of Crime No.10 of 2018 registered at P.S, C-Section, Sukkur, has filed application under section 426 CrPC for suspension of his sentence on medical ground.

**2.** On his application, a Board was constituted and report was sought. He was examined by Medical Board, which filed a report dated 18.08.2023 opining that appellant was old aged patient with heart disease and his stay in jail was detrimental to his life. Notwithstanding, when the report was found sketchy and incomplete in that it was not specifically stated whether appellant's treatment inside jail was possible or not and whether he could be given treatment inside jail, his case was again referred to M.S, GMMMC, Hospital, Sukkur for a detailed report.

**3.** In a subsequent report, dated 11.11.2023, it has been stated that although treatment is mandatory but can be done inside the jail and compliance be ensured and further Medical Board has advised Jail Superintendent to provide medical treatment to appellant, as prescribed in jail record.

4. Learned counsel for appellant has stated that last report has been managed after a clarification was sought by this Court. Learned counsel for complainant has confuted him and states that first report was managed one and even otherwise since time of his arrest in the year 2018, he is in jail and is being provided medical treatment by the jail authorities.

5. I have considered submissions and perused the material available on record including both the reports. This is a triple murder case, in which specific role, prima facie, has been attributed to the appellant. He has not established heart disease inside the jail, but apparently even before registration of FIR, report suggests, he was heart patient since date of his arrest in the year 2018. Appellant has been in jail and has been provided medical treatment since without any complication even having been arisen. The subsequent report shows that appellant's treatment inside jail is possible and he has already been provided the same. Sentence on medical ground can only be suspended when it is shown that appellant's confinement in the jail is detrimental to his life and secondly he cannot be provided treatment in the jail. The second ground that appellant cannot be provided treatment in the jail is not established from the reports of Medical Board. More so, learned counsel for complainant and Additional P.G, both have stated that they are ready to proceed with the mail appeal.

6. In the circumstances, this application under section 426 CrPC filed by appellant Ameer Ali is **dismissed**. However, adjourned to **11.12.2023**, when learned counsel for the appellants shall come prepared to proceed with the mail appeal.

**JUDGE**