

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

**Cr. Rev. App. No. D – 22 of 2023**

*(Shahzeb Khan Pathan versus The State)*

*Present:*

**Mr. Muhammad Iqbal Kalhoro, J.**

**Mr. Arbab Ali Hakro, J.**

Date of hearing : **17.01.2024**

Date of decision : **17.01.2024**

Mr. Aijaz Ali Bhatti, Advocate for applicant.

Mr. Zulfiqar Ali Jatoi, Additional Prosecutor General.

## **ORDER**

**Muhammad Iqbal Kalhoro, J.** – Applicant is standing a trial in Crime No.56 of 2022, registered by CTD Police, Sukkur at Police Station Tando Masti Khan, District Khairpur under Section 4/5 of Explosive Substances Act and 7 of Anti-Terrorism Act, 1997. He filed an application under Section 8 of Juvenile Justice System Act, 2018, seeking declaration that he is a minor and be tried accordingly under the ibid Act. His application has been dismissed by learned Special Judge, Anti-Terrorism Court, Khairpur vide impugned order dated 14.03.2023, which he has challenged in this revision application.

2. Learned Counsel has argued that the offence was committed on 19.05.2022, and the Medical Board, which examined the applicant, convened on 21.12.2022 and he was found aged about 18-19 years. It is settled that favourable view to the accused is to be taken; hence, if accused is taken to be aged about 18 years on 21.12.2022, on 19.05.2022 admittedly he was minor. Hence, he shall be tried as a juvenile offender. He has relied upon the cases of *Sahib Ulah versus State through A.G. Khyber Pakhtunkhwa and another* (**2022 SCMR 1806**) and *Saghir Ahmed versus The State and others* (**2023 SCMR 241**).

3. On the other hand, learned Additional Prosecutor General has opposed the revision application and has relied upon the cases of *Meraj Hussain and 3 others versus Judge, Anti-Terrorism, Northern Areas,*

*Gilgit and another* (2007 P Cr. L J 1011) and *Abdul Nabi versus the State* (2017 SCMR 335).

4. We have heard parties and taken guidance from the case law relied at bar. At the very outset, it may be stated that mathematical calculation of the age of applicant is neither desired in law nor can be pressed by applicant for attracting Section 8 of Juvenile Justice System Act, 2018. The Medical Board, which examined applicant, found him major, aged about 18/19 years and it happened only 6/7 months after the date of offence. The age of the applicant determined by the board is probable in all respects and confirms his being major. Finding of 18/19 of age by board does not mean that it is verily tilted in favour of the applicant to be a minor. The trial Court has attended to the same point reasonably and has given cogent reasons for dismissing the application, which we found is unexceptionable.

5. No case for interference is made out therefore and accordingly this application is **dismissed**.

J U D G E

J U D G E

Abdul Basit