

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Crl. Misc. Appl. No.392 of 2023
(*Muhammad Saleem v. Special Judge, Provincial Anti- Corruption Karachi*)

Date	Order with signature of Judge
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1. For hearing of main case
2. For hearing of MA No.7012/2023
3. For hearing of MA No.6006/2024

29.05.2024

Mr. Zahid Hussain, advocate for the applicant
Ms. Rubina Qadir, DPG for the State

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The facts in brief necessary for the disposal of the instant Crl. Misc. application are that accused Abdul Naeem was on interim pre-arrest bail when his bail application was taken up for hearing by Special Judge Anticorruption (Provincial) Karachi, he was called absent; consequently, his bail application was dismissed with the issuance of notice against his surety/applicant in terms of Section 514 Cr.PC. The surety/applicant furnished his reply; it was found unsatisfactory; consequently he was imposed the penalty of Rs.100,000/- by learned Special Judge Anticorruption (Provincial) Karachi vide order dated 15.05.2023, which is impugned by the applicant before this Court by preferring the instant Crl.Misc. Application without joining the *State* as a party.

It is contended by learned counsel for the applicant that the impugned order being harsh is liable to be set aside. However, learned DPG for the State by supporting the impugned order has

sought dismissal of the instant Crl. Misc. Application by contending that it has been passed after due hearing.

Heard arguments and perused the record.

It is mandated by Section 514 Cr.PC that forfeiture of a bond is to be recorded first and then notice is to be issued against the person who has executed the same, calling upon him to show cause as to why he should not be penalized on account of forfeiture of his bond. In the instant case, no forfeiture of the bond so executed by the applicant/surety was recorded by the Court before the issuance of notice to him, therefore, such omission has rendered the impugned to be illegal. Even otherwise the absence of the accused before the learned trial Court was a short one; it was beyond his control as suggested by the learned counsel for the applicant/surety and he now has joined the trial after obtaining the bail from this Court. In these premises, the impugned order could not be sustained; it is set aside by converting the instant Crl. Misc. Application into Crl. Revision Application.

It would be unjustified to record the dismissal of the instant Crl. Misc. Application, which now has been converted into Crl. Revision Application for want of *State* as a party, which even otherwise was fully represented by the learned DPG for the State.

Order accordingly.

J U D G E

Nadir*