

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

PRESENT:

MR. JUSTICE AQEEL AHMED ABBASI, CJ
MR. JUSTICE ABDUL MOBEEN LAKHO

C.P. No.D-2784 of 2024

Date

Order with signature of Judge

FRESH CASE:

1. For hearing of CMA No.12659/2024 (Stay).
2. For hearing of main case.

Dated; 11th June 2024

Mr. M. Saad Siddiqui, Advocate for Petitioner.

Mr. Saifullah, Asst. A.G. Sindh.

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ORDER

1. Through instant Constitutional Petition, the petitioner, a retired Judicial Officer, has expressed his grievance against arbitrary and illegal withdrawal of gunman and police guard deployed at the residence for security purposes, whereas, contention of learned counsel for the petitioner was recorded in the order dated 04.06.2024 in the following terms: -

“3-4. Through instant petition, the petitioner, who is a retired Judicial Officer and was posted as Judge of Anti-Terrorism Court- VIII, Karachi from August 2014 to September 2015, has expressed his grievance against the arbitrary decision by the Police Department, who have withdrawn the gunman and security guards given to the petitioner pursuant to a Letter dated 26.11.2011 issued by the Home Department, Government of Sindh, copy of which is available at Page: 307 as Annexure 'P/10' and the Judgment of the Superior Court to this effect, wherein, it has been held that an ATC Judge is entitled to security even after retirement till execution of the sentences awarded during tenure as ATC Judge. Per learned counsel, there are serious threats to the life of the petitioner, whereas, law and order situation in the

Province is already deteriorated, therefore, such act on the part of the Police is unwarranted and contrary to the law as laid down by the Superior Courts. He has referred to the Judgment of the Hon'ble Supreme Court in the case of Liaquat Hussain & others v. Federation of Pakistan through Ministry of Justice & Parliamentary Affairs, Islamabad & others [PLD 1999 SC 504], copy of which is available at Page: 31 113 as Annexure 'P/3' and a judgment dated 09.02.2018 passed by a Division Bench of this Court in Constitutional Petition No D-6228 of 2017 [Re: Arshad Noor Khan v. Government of Sindh through Home Secretary & others), copy of which is available at Page: 291-297 as Annexure "P/8.

Let pre-admission notice be issued to the respondents as well as Advocate General Sindh, to be served through first three modes, for 11.06.2024, when comments/reply/ objection, if any, shall be filed with advance copy to the learned counsel for petitioner. In the meanwhile, in order to preventing and to avoid any untoward incident, respondents are directed to post/provide gunman and guard, which were already posted at the residence of the petitioner immediately and submit compliance on the next date of hearing.

Mr. Saifullah, learned Assistant Advocate General Sindh present in Court, waives notice of instant petition, claims copy alongwith annexure and request for time to seeks instructions and to file comments/reply, to which, learned counsel for the petitioner undertakes to supply the same during course of the day.

Let copy of this order be supplied cover-in-hand to the learned AAG for onward transmission to the concerned quarters to ensure compliance.”

2. Pursuant to Court's directions, SSP Security-I, Mr. Asghar Usman, has shown appearance and filed compliance report alongwith copy of letter dated 07.06.2024 issued from the office of Inspector General of Police, Sindh Karachi addressed to the Additional Inspector General of Police, Karachi Range and SSP Security-I, Karachi with reference to instant petition directing the concerned

officials to ensure compliance of the directive of the Court's order in letter and spirit. Same is taken on record, copy of which has been supplied to the learned counsel for petitioner, who under instructions submits that only one gunman, namely, Shakir has been deployed at the residence of the petitioner, whereas, directions in this regard have already been issued in the case of Arshad Noor Khan v. Government of Sindh through Home Secretary and others passed by the learned Divisional Bench of this Court vide judgment dated 09.02.2028, whereas, the guard, namely, Fahad Ali has not been deployed. SSP Security-I submits that as soon as order of this Court was communicated both the gunman and guard have been deployed at the residence of the petitioner. Guard Fahad Ali is present in Court.

3. While enquired as to why without seeking permission from the Registrar of this Court or the respective Judge such deployment was withdrawn inspite of various Notifications/letters from the department and from the office of IG P and Registrar of Sindh High Court to this effect, in response to such query, SSP Security-I submits that on account of some confusion with regard to the status of the retired judge, such deployment has been withdrawn on the instructions of the Divisional Threats Assessment Committee, who were of the view that petitioner was not the Judge of the Anti-Terrorism Court. However, after ascertainment of the facts and pursuant to the order passed by this Hon'ble Court on 04.06.2024, such deployment has been restored.

4. It has been observed that there have been various instances reported regarding arbitrary and illegal decision withdrawal of police guards, gunmen and escorts from the residences even of the serving and retired/former Judges of this Court, as well as the Judges of the Anti-Terrorism Courts, inspite of the fact that the Hon'ble Supreme

Court of Pakistan through respective Committee has issued specific directions to the concerned departments/authorities to provide complete security to the serving Judges and their families of the Superior Courts, whereas, Home Department and the Police Department pursuant to directions issued from time to time by the Chief Justice of this Court through Registrar has deployed the gunmen/police guards (1+3) at the residences of Judicial Officers of District Judiciary, retired judges of this Court as well as judges of Anti-Terrorism Courts, their security has been compromised while withdrawing the same on one pretext or the other, which leaves the judges exposed to serious life threats and any untoward incidence by the terrorist and criminal elements of the society. Moreover, this aspect of the matter has also been dealt with our judicial side as well in the cases as referred in the order dated 4.6.2024 as well as in CP No.D-1311/2020 (Re: Advocate Ghulam Murtaza v. Province of Sindh and others].

5. Accordingly, while disposing of instant petition, we will direct the Secretary, Home Department, Government of Sindh and the Inspector General of Police, Sindh Karachi to ensure that gunmen, police guards and escorts deployed at the residences of the serving as well as retired judges of this Court, as well as the judges of Anti-Terrorism Courts and Judicial Officers of District Judiciary, as per their entitlement, shall not be withdrawn without permission of the respective Hon'ble Judge and Registrar of this Court. In case of any violation of such directions, concerned Authority / Officials shall expose themselves to initiation of contempt of Court proceedings.

Since the guards/gunmen withdrawn from the petitioner's residence have been restored, therefore, instant petition is disposed of in the above terms alongwith listed applications.

Let copy of this order may be supplied cover-in-hand to the learned AAG for onward transmission to all the respondents and also the concerned quarters, including law enforcement agencies, including Rangers through D.G. Rangers, Sindh to ensure compliance.

CHIEF JUSTICE

JUDGE

Farhan/PS
