

**IN HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

CP No. D-453 of 2025

PRESENT:

MR. JUSTICE ARBAB ALI HAKRO

MR. JUSTICE RIAZAT ALI SAHAR

Mr. Mushtaque Ali Tagar advocate for petitioner.

Date of hearing & decision: 18.03.2025.

ORDER

RIAZAT ALI SAHAR, J: - Through this petition, the petitioner has prayed as under:-

- a. Direct the respondents to arrest nominated accused and produced them before Court of law and show progress report regard, blocked the CNICs, passport canceled the visa of proclaimed offenders accused Asghar Ali and others immediately.*
- b. Direct the official respondents to take efforts for deport the above named accused.*
- c. Any other relief.....*
- d. Grant costs.....*

2. The learned counsel for the petitioner contends that the petitioner filed a FIR bearing No. 34/2024 under sections 302, 114, 506/2, 337-H (ii), 148, 149, 504 PPC at PS Pat Ghulam Muhammad District Dadu in respect of the murder of his brother against accused Asghar and others and FIR bearing No.35/2024 under section 382, 427, 147, 148, 149, 337-H (ii), 504 PPC is also lodged by one Balach Khan at the same police station. He contends that the police is making arrest of the nominated accused persons. Learned counsel further contends that one of the nominated absconding accused namely Asghar left the country and performing duties at Saudi Arabia as a Driver with

the respondent No.9. Lastly he contends that the respondents may be directed to arrest nominated accused and produce before the Court law and official respondents may be directed to take efforts for deporting the nominated accused who is in Saudi Arabia.

3. After hearing the learned counsel for the petitioner, the Court specifically inquired whether the petition is maintainable against respondent No. 9, who is a foreign national with no direct connection to the alleged crime. The Court also questioned whether the trial Court has the jurisdiction to address the relief sought by the petitioner. However, the learned counsel was unable to satisfy the Court on these legal points and failed to provide proper assistance in this regard.

4. In light of the foregoing discussion and upon careful examination of the petition and submissions made by learned counsel, it becomes abundantly clear that the petitioner has failed to establish the legal maintainability of this petition. The primary relief sought revolves around the arrest and deportation of the nominated accused Asghar Ali, who is reportedly residing and working in the Kingdom of Saudi Arabia. However, the petitioner has neither placed on record any substantive legal provision nor cited any precedent that would empower this Court to issue such directions in relation to a foreign jurisdiction or against an individual who is currently beyond the territorial jurisdiction of Pakistan. The petitioner has not demonstrated any attempt to avail himself of the statutory remedies provided under the Code of Criminal Procedure for dealing with absconding accused persons, including but not limited to the initiation of proceedings under sections 87 and 88 Cr.P.C., proclamation, attachment, and coordination through ambassadorial channels.

5. Moreover, while the petitioner has sought directions against respondent No. 9, who is a foreign national, no plausible

explanation has been furnished as to how such respondent can be impleaded in the present proceedings, particularly when there is no allegation of criminal facilitation, harboring, or conspiracy attributed to him. The learned counsel for the petitioner, despite being given an opportunity, was unable to point out any provision of law which confers jurisdiction upon this Court to pass an order of deportation in respect of a foreign-based accused or to issue directions against a foreign national who is not open to the jurisdiction of this Court. The absence of any supporting documentation or legal justification in this regard renders the petitioner's prayer vague, overreaching and legally untenable.

6. It is also pertinent to observe that the record does not reflect any negligence of duty on part of the official respondents in the matter. No specific instance of mala fide, willful neglect or unlawful conduct has been shown to justify the issuance of writ or constitutional directions against them. The machinery of law provides a structured framework for investigation, arrest and prosecution of accused persons, including provisions for red corner notices, mutual legal assistance and extradition through proper governmental channels. However, there is no material to suggest that the petitioner has made any effort to invoke these mechanisms through the concerned authorities or that such authorities have failed to act on a legitimate request. Thus, the case, as presented, lacks the legal foundation necessary for invoking the extraordinary constitutional jurisdiction of this Court. It seems more in the nature of a premature and ill-conceived attempt to avoid the ordinary criminal procedure and to seek directions that are beyond the purview of this Court at this stage.

7. In view of the above legal and factual considerations, the petition appears to be misconceived and is not sustainable in its present form. The reliefs sought by the petitioner fall

primarily within the domain of the investigative and prosecutorial authorities, and where required, the competent trial Court, which is vested with the jurisdiction to deal with matters relating to absconding accused, issuance of warrants, proclamation, attachment, and further legal actions under the framework of criminal law. The petitioner has neither demonstrated that he exhausted such remedies nor has he provided any cogent reason for bypassing the proper legal forum. The learned counsel, despite multiple opportunities, failed to address the fundamental issue of maintainability and jurisdiction of this Court under Article 199 of the Constitution in relation to the nature of relief sought, particularly in the context of international law, extradition, and foreign employment.

8. Furthermore, the constitutional jurisdiction of this Court is discretionary and cannot be invoked to obtain directions which require executive and diplomatic intervention, especially when no malafide, inaction, or willful neglect is established on the part of the official respondents. The Court cannot be expected to issue blanket directions in abstract terms or act as a substitute for investigative or trial processes. In the present case, there is neither any demonstrable failure of statutory duty by the respondents nor any extraordinary circumstance warranting urgent or exceptional interference.

9. It is settled law that writ jurisdiction is not to be exercised in a routine manner and must be invoked only when there is no adequate or efficacious alternative remedy available, and where a clear violation of fundamental rights or statutory obligations is shown. Mere dissatisfaction with the pace of investigation or absence of immediate arrest cannot form the basis for invoking constitutional jurisdiction, especially when procedural channels remain unexhausted and no concrete

prejudice has been shown to have been suffered by the petitioner due to any inaction on the part of the State machinery.

10. In light of the foregoing, the petition is found to be devoid of merit and substance. The learned counsel has not been able to provide any persuasive or satisfactory legal basis to support the maintainability of the instant petition. No any justification been offered as to why the petitioner failed to invoke or await the decision of the trial Court, which remains the appropriate forum for the enforcement of rights and redressal of grievances in criminal proceedings. Consequently, the petition, being misconceived, is dismissed in limine along with all pending applications, if any.

JUDGE

JUDGE