

# IN THE HIGH COURT OF SINDH AT KARACHI

## Criminal Misc. Application No.S-1014 of 2025

For the Applicant : Sawan son of Sobdar, Through:  
Mr. Awais Ali Burdi advocate

For the Respondent : The State Through: Ms. Amna  
Ansari,  
A.P.G.

Date of hearing : 13.02.2026

Date of Order : 13.02.2026

### ORDER

Jan Ali Junejo, J:-- Through this Criminal Miscellaneous Application under Section 561-A Cr.P.C., the applicant Sawan S/o. Sobdar has called in question the legality and propriety of the order dated 13.10.2025 (hereinafter referred to as the "*Impugned Order*") passed by the learned Additional Sessions Judge-VI, Karachi South, in Sessions Case No.1035/2024 (The State v. Imdadullah and another), whereby his application under Section 265-K Cr.P.C. seeking acquittal at pre-trial stage was dismissed.

2. Briefly stated, the prosecution case arises out of F.I.R. No.560/2023 registered at P.S. Boat Basin, Karachi under Sections 223, 224, 225-B, 34 P.P.C., regarding escape of accused Abdul Hakeem from lawful custody at CNS Court Clifton. The present applicant, who was serving as ASI and Lockup Incharge at the relevant time, initially lodged the FIR against PC Imdadullah alleging negligence in permitting the escape. During investigation, however, the Investigating Officer implicated the applicant as co-accused and submitted challan accordingly. After cognizance and

framing of charge, the applicant moved an application under Section 265-K Cr.P.C. before the learned Trial Court, which was dismissed vide impugned order dated 13.10.2025, hence the instant application.

3. Learned counsel for the applicant contended that the applicant is innocent and has been falsely implicated by the Investigating Officer with mala fide intention. It was argued that the applicant himself was the complainant of the case and there is no direct or indirect evidence connecting him with the alleged offence under Sections 223/224/225-B/34 P.P.C. He submitted that the alleged involvement of the applicant is based solely upon his purported statement under Section 161 Cr.P.C., which is hit by Article 13(b) of the Constitution of Islamic Republic of Pakistan, 1973, and Article 15 of the Qanun-e-Shahadat Order, 1984, relating to protection against self-incrimination. It was further contended that even if the entire prosecution material is accepted as correct, no probability of conviction exists and continuation of trial would be a futile exercise and sheer wastage of judicial time. He prayed that the impugned order be set aside, proceedings be quashed and the applicant be acquitted in exercise of inherent powers under Section 561-A Cr.P.C.

4. Conversely, learned A.P.G. opposed the application and argued that the learned Trial Court has rightly dismissed the application under Section 265-K Cr.P.C. after proper appraisal of record. She submitted that the question whether the applicant, being Lockup Incharge, exercised due supervision and whether his acts or

omissions facilitated the escape are matters requiring evidence. It was contended that at this preliminary stage, the Court is not to conduct a deeper appreciation of evidence and that the charge cannot be termed groundless. She prayed for dismissal of the Criminal Miscellaneous Application.

5. I have considered the arguments advanced by the learned counsel for the parties and perused the record with their assistance. The scope of Section 265-K Cr.P.C. is well settled. Acquittal at a pre-trial stage is an exception to the normal rule that a criminal case should proceed to full trial after recording of evidence. Such jurisdiction is to be exercised sparingly and only where the charge is patently groundless and there is no probability of conviction even if the entire prosecution material is accepted at its face value. In the present case, the record reflects that the applicant was posted as Lockup Incharge at CNS Court Clifton at the relevant time and was entrusted with supervisory responsibility over the custody of under-trial prisoners produced before the Court. The prosecution case, as emerging from the challan and statements recorded under Section 161 Cr.P.C., attributes joint responsibility and negligence in supervision resulting in escape of a prisoner from lawful custody. Whether such negligence amounts to an offence under Sections 223, 224 or 225-B P.P.C., and whether common intention under Section 34 P.P.C. is attracted, are questions which cannot be conclusively determined without recording evidence.

6. The contention regarding self-incrimination and inadmissibility of statement under Section 161 Cr.P.C. also pertains

to evidentiary value, which can only be adjudged at trial. At this stage, this Court is not required to examine admissibility or probative value of each piece of evidence in isolation. The material collected during investigation, coupled with the supervisory role admittedly assigned to the applicant, cannot be termed wholly insufficient so as to render the charge groundless. It is also significant that cognizance has been taken, charge has been framed and the trial has commenced. The extraordinary jurisdiction under Section 561-A Cr.P.C. is to be invoked to prevent abuse of process of Court or to secure ends of justice. No such exceptional circumstance has been demonstrated which would justify stifling the prosecution before it is afforded opportunity to lead evidence.

7. The learned Trial Court has relied upon settled principles laid down by the superior Courts that provisions such as Sections 249-A, 265-K and 561-A Cr.P.C. should not ordinarily be pressed into service to throttle a prosecution at its threshold. I find no illegality, irregularity or jurisdictional defect in the impugned order warranting interference by this Court.

8. For the foregoing reasons, the present Criminal Miscellaneous Application, being devoid of merit, is hereby dismissed. The trial Court is directed to proceed with the matter expeditiously and in accordance with law. These are the detailed reasons of the Short Order dated: 13-02-2026.

**JUDGE**