

ORDER SHEET
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR
Criminal Appeal No.S-85 of 2024
[Saeed and another vs. The state]

Date	Order with the signature of the Judge
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- 1. For orders on M.A No.1006/2026 (426 Cr.P.C)
- 2. For the hearing of the main case.

19.03.2026

Mr. Achar Khan Gabol, Advocate for the appellant.
Mr. Shafi Muhammad Mahar, Deputy Prosecutor General.
Mr. Mukhtiar Hussain Katper, Advocate for Complainant.

The record reflects that the appellant, Ghulam Hussain, along with co-accused, was booked in FIR No. 383 of 2023 registered under Section 395 PPC at Police Station Moro. After conclusion of the trial, the learned trial Court, vide impugned judgment dated 13.07.2024, convicted and sentenced the appellant to undergo rigorous imprisonment for five years along with a fine of Rs.50,000/-. In case of default in payment of fine, he was directed to suffer simple imprisonment for a further period of three months. The benefit of Section 382-B Cr.P.C. was also extended to the appellant.

Briefly stated, the complainant, Niaz Ahmed, reported that on 18.07.2023, he, along with his companions, was travelling in a vehicle when they were intercepted by unknown accused persons, who stopped their vehicle and robbed them of an amount of Rs.383,000/-. Subsequently, the accused persons were identified as the present appellant and others. Upon completion of the investigation, the challan was submitted, and after a full-fledged trial, the appellant was convicted and sentenced as stated above.

Learned counsel for the appellant submits that although the appellant has been awarded a sentence of five years, as per the jail roll, he has already undergone more than half of the substantive sentence. It is further contended that the sentence awarded is of short duration and there is no likelihood of the appeal being decided in the near future; therefore, the appellant deserves the concession of suspension of sentence and release on bail.

Conversely, the learned Deputy Prosecutor General and counsel for the complainant opposed the application and supported the impugned judgment, contending that the appeal can be decided within a short span of time.

Heard the learned counsel and perused the available record.

Admittedly, the sentence awarded to the appellant is of short duration, i.e., five years, and a substantial portion thereof has already been undergone. In such circumstances, if the sentence is not suspended, there is every likelihood that the appellant may serve out the entire sentence before the appeal is decided on merits, which would render the appeal infructuous and amount to pre-execution of the sentence. Such contentions mentioned *supra* find support from the cases of **Makhdoom Javed Hashmi v. The State'** (2008 SCMR 165), **'Adnan A. Khawaja v. The State'** (2008 SCMR 1439) and **'Anwar-ul-Haq v. National Accountability Bureau'** (PLD 2009 Supreme Court 388), **Mahmood Iqbal v. The State** (2008 MLD 1376 (Lahore-DB), **Rizwan and another v. Federation of Pakistan through Secretary Ministry and 2 others** (2013 YLR 520 (Sindh-DB), **Ilyas alias Billu v. The State** (2008 MLD 312 (Lahore-DB). **Nazeer Ahmad and 2 others v. The State** (2005 PCr.LJ 657 Karachi) and **Abdul Hameed v. Muhammad Abdullah and others** (1999 SCMR 2589)." (PLD 1995 Karachi 209), **Liaqat and another v. The State**" (1995 SCMR 1819) and **"Naveed alias Navidi v. The State"** (2011 PCr.LJ 1971)

Keeping in view the above facts and circumstances, the application under Section 426 Cr.P.C., bearing No. 1006 of 2026, is allowed. The conviction and sentence awarded in impugned judgment dated 13.07.2024 is hereby suspended, and consequently, the appellant, namely **Ghulam Hussain son of Sarang Abro**, is admitted to bail subject to furnishing solvent surety in the sum of Rs.50,000/- to the satisfaction of the Additional Registrar of this Court. Relist the main appeal on 20.04.2026.

JUDGE