

*ORDER SHEET*  
**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD.**

Cr. Appeal No.S-52 of 2015.

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DATE

ORDER WITH SIGNATURE OF JUDGE

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1. For order on M.A. No.7381 of 2015.
2. For order on M.A. No.6761 of 2015.

16.09.2015.

Mr. Hussain Bux Solangi, Advocate for the appellant.

Mr. Shahid Ahmed Shaikh, A.P.G.

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1. Urgency application allowed.
2. Dismissed having become infructuous.

By consent of learned counsel for the appellant and learned A.P.G, who is present in Court in other matters, application under section 426 Cr.P.C. (M.A. No.2781/2015) was taken up for hearing.

Through instant application under section 426 Cr.P.C, appellant seeks suspension of the judgment dated 17.03.2015, passed by the learned Assistant Sessions Judge, Dadu in Sessions Case No.736 of 2014, whereby the appellant was convicted under section 324 PPC and sentenced to suffer R.I. for 05 years and fine of Rs.5000/-.

2. Learned counsel for the appellant mainly presses the instant application on the ground that the appellant was convicted under section 324 P.P.C. and sentenced to suffer R.I. for 05 years and pay fine of Rs.5000/-, which is a short sentence and the disposal of main appeal would take time. He submits that the impugned judgment is capricious and is based on presumptions, suppositions, conjectures and surmises. He further submits that the sentence in the facts and circumstances of the case is harsh; therefore, he may be released on bail during pendency of instant appeal.

3. Learned A.P.G. has frankly conceded to the suspension of the sentences awarded to the appellant during pendency of main appeal, on the ground that the sentence is short one.

4. Heard arguments of the learned counsel for the parties and perused the record.

5. Learned counsel for the appellant while arguing the present application relied upon the case of **NAZEER ALI alias NAZEER v. THE STATE (2011 Y L R 403)**, in which the sentence awarded to the accused was of 05 years and the learned Division Bench of this Court while treating the same as short sentence suspended the same. In the present case the sentence awarded to the appellant is also R.I. of 05 years; the instant appeal is pending since 02.04.2015; appellant is behind the bars since his arrest; that looking to the backlog of appeals /cases at this Circuit, disposal of main appeal in near future is not in sight; keeping the appellant behind bars will not serve any purpose, because at the time of hearing of main appeal in case the appellant succeeds then agony already suffered by him while remaining in jail could not be measured in term of money. Accordingly, considering the facts and circumstances of the case, suspension of the impugned judgment at this stage would be just.

6. In view of above, the operation of the impugned judgment dated 17.03.2015 is suspended during pendency of main appeal and the appellant is directed to be released on bail subject to furnishing solvent surety in the sum of Rs.100,000/- (Rupees one hundred thousand) and P.R. Bond in the like amount to the satisfaction of Additional Registrar of this Court.

JUDGE

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