

Form No: HCJD/C-121

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Criminal Appeal No.121 of 2018

Mian Muhammad Nawaz Sharif.

Versus

State through Chairman, National Accountability Bureau, Islamabad.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	15.09.2020	Kh. Haris Ahmed, Sr. ASC, Barrister Munawar Iqbal Duggal, ASC, Mr. Sher Afgan Asadi, ASC, Mr. Muhammad Zubair Khalid, ASC, Mr. Ibrahim Haroon, AHC, Mr. Arshad Jadoon, Advocate, Mr. Attal Ullah Tarar, Advocate and Mr. M. Faisal Irfan, Advocate for the applicant/appellant. Mr. Jahanzaib Khan Bharwana, Additional Prosecutor General, NAB. Barrister Qasim Ali Chowhan, Additional Advocate General, Government of Punjab. Mr. Tariq Mehmood Khokhar, Additional Attorney General. Mr. Arshad Mehmood Kiyani, learned Deputy Attorney General. Mr. Imran ul Haq Khan, Deputy Prosecutor General, NAB. Sardar Muzaffar Abbasi, Deputy Prosecutor General, NAB. Mr. Naeem Tariq Sanghera, Special Prosecutor NAB. Syed Jalal Hussain, Special Prosecutor, NAB. Saqlain Haider Awan, Assistant Attorney General. Mr. Muhammad Nadeem Khan Khakwani and Farrukh Shehzad Dall, Assistant Attorney General.

Criminal Misc. No.215 of 2020.

The appellant, in the instant application,
has made the following prayer:-

“It is, therefore, prayed most respectfully that this Hon’ble Court may very graciously dispense with the personal attendance of the Applicant in the titled Appeal.

It is, therefore, prayed most respectfully that this Hon'ble Court may very graciously dispense with the personal attendance of the Applicant in the titled Appeal and may graciously either adjourn the titled Appeal or his Pleader already engaged by him for the said purpose be heard in support of his appeal as envisaged by Section 423 Cr.P.C.”

2. Learned counsel for the appellant, *inter-alia*, contends that the appellant's sentence was suspended and he was granted bail by this Court in Writ Petition No.2839 of 2018, vide judgment dated 19.09.2018. It was submitted that since then the appellant had to travel abroad for his treatment due to life threatening indisposition. It was further contended that the appellant is unable to return to Pakistan and appear before the Court due to his condition, hence the instant appeal be decided on merit after hearing the pleader/counsel appointed by him representing him in the appeals. In support of his contentions, learned counsel relied upon Section 423 Cr.P.C as well as the case law on the subject. Learned counsel also took the Court through the certificate issued by one Dr. David Lawrence.

3. Arguments advanced by learned counsel for the appellant/applicant has been heard.

4. The appellant seeks decision of the case on merit in light of the fact that he is unable to appear before the Court on the dates of hearing to be fixed for decision of the appeal on merit in light of Section 423 Cr.P.C. The reason for absence is the indisposition of the appellant. For the sake of backdrop, it is mentioned that the appellant was tried and convicted by Accountability Court No.I, vide judgment dated 06.07.2018, he filed the instant appeal and alongwith the same a petition under Article 199 of the Constitution was also filed seeking suspension of the sentence and release on bail. The said petition was allowed by this Court, vide judgment dated 19.09.2018. The appellant then proceeded to United Kingdom in November, 2019 and is still there allegedly on account of his indisposition. Meanwhile, the appellant was declared a proclaimed offender by Accountability Court No.III, vide order dated 09.09.2020, in Reference No.06/2020 and arguments were also addressed by learned counsel as to the effects of the same on the instant application. It is trite law that after a person has been declared as fugitive from law or an absconder, even in another case he loses his rights granted to him by procedural or substantive law. The celebrated judgment on the issue is "*Hayat Bakhsh and others Vs. The State*" (**PLD 1981 SC 265**).

5. Since in a connected appeal i.e. Criminal Appeal No.01 of 2019, the bail granted to the appellant lapsed, hence orders have been passed for his attendance and appearance before the Court. In the referred appeal an application was also filed seeking almost the same relief (Cr. Misc. No.213 of 2020) as in the instant application. The said application has been disposed of, vide judgment of the even date on the ground that first attendance of the appellant is to be procured and the decision regarding the disposal of the appeal on merit shall be rendered after the procedure is completed. Since the instant application is also to the same effect as mentioned above and the appellant has been declared a proclaimed offender and also the fact that he is seeking perpetual exemption in essence, the application is misconceived.

6. For what has been stated above, the instant application is **disposed of**, however, it is clarified that the decision regarding the disposal of the appeal of the appellant on merit under Section 423 Cr.P.C shall be taken after the procedure for procuring attendance of the appellant is completed, in accordance with Section 423 Cr.P.C and the applicable law.

Main Case.

Since the appellant is not present which he ought to have been under the terms of the suspension of sentence and bail granted to the appellant, vide judgment mentioned hereinabove, non-bailable warrants of the appellant are issued, the execution of the warrants shall be effected by Federal Government through High Commission of Pakistan in United Kingdom for 22.09.2020.

2. To come up for further proceedings on 22.09.2020.

**(MOHSIN AKHTAR KAYANI)
JUDGE**

**(AAMER FAROOQ)
JUDGE**

M. Zaheer Janjua

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