ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

(JUDICIAL DEPARTMENT)

Institution No.13094/2026

Muhammad Imran
Versus
The State

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
03	22.07.2026	Syed Zulfiqar Abbas Naqvi and Mr. Mudassar Hussain Malik, Advocates for the appellant.

The instant matter has been placed before this Court as an objection case. The appellant has presented a criminal appeal assailing the judgment dated 09.07.2026 passed by the learned Additional Sessions Judge-VI, Islamabad-West, whereby he has been convicted and sentenced. The appeal has, however, not been entertained or assigned a regular number as the office has raised an objection that, the appellant having been convicted and his bail bonds having stood cancelled pursuant to the impugned judgment, the appeal is not entertainable unless he first surrenders before the learned trial Court in execution of the sentence awarded against him.

2. Since the objection raised by the office concerns the very maintainability of the appeal at its threshold, this Court directed the office to submit its report identifying the statutory provision, rule or settled judicial principle forming the basis of the objection. The office has accordingly submitted its report, which has been examined.

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3. The relevant facts are not in dispute. The record reveals that the appellant appeared before the learned trial Court on 09.07.2026, the date fixed for pronouncement of judgment. However, before the judgment could be announced, he absented himself from the Court. Upon his conviction, the learned trial Court cancelled his bail bonds and ordered issuance of the requisite process for execution of the sentence. Admittedly, the appellant has not surrendered before the learned trial Court thereafter.

4. At this stage, this Court is not concerned with the legality of the conviction recorded by the learned trial Court, nor with the merits of the criminal appeal sought to be instituted by the appellant. The appeal has yet to be entertained. The sole question requiring determination is whether a convict, against whom an executable order of imprisonment is outstanding and who has failed to surrender before the Court competent to execute the sentence, can insist upon the appellate Court entertaining his appeal before first submitting himself to the due process of law.

5. The issue is no longer *res integra*. The jurisprudence developed by the august Supreme Court of Pakistan consistently proceeds on the principle that the right to invoke the appellate jurisdiction of a criminal Court is inseparably linked with the obligation of the convict to submit himself to the process of law. A person who deliberately evades execution of the sentence cannot simultaneously seek the

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discretionary intervention of the appellate forum. The doctrine is founded not upon procedural technicality but upon the orderly administration of criminal justice and the dignity of the judicial process.

6. The subject received an exhaustive examination by the august Supreme Court of Pakistan in **Hayat Bakhsh and others Vs. The State (1981 SCMR 1)**, wherein the Hon'ble august Court reviewed the earlier authorities governing the field and authoritatively explained the rationale underlying the requirement of surrender. The relevant observations are reproduced hereunder verbatim:

> *"Four basic principles need to be highlighted with reference to the views expressed thereupon by this Court:*
> *(1)….*
> *(2)* ***the principle that the Court would not act in aid of a person who is fugitive from justice, was affirmed in the case of Chats Shah and a universal rule was reiterated that it is an essential condition of the administration of justice, in a case affecting an individual or individuals that the persons concerned should submit to the due process of justice. While administering a caution to the Attorneys and Advocates, the Court observed that steps should be taken to secure the appearance of the prisoner before this Court on the first day that the petition comes up for hearing and it is at that time that a move can be made through counsel for an order suspending the execution of the High Court decision:***
> ***(3) a fugitive from law has no right of hearing before an appellate forum was affirmed in the case of Gul Hassan in such strong terms that he was treated as a contemner, and even if he had been condemned to death by the trial Court, in a reference for confirmation of death sentence under section 374 Cr.P.C., the High Court could***

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> ***justifiably refuse to hear anything against confirmation of death sentence on behalf of the convict, who "decamps and thereby forfeits the right o audience", in that eventuality the "sentence of death may be confirmed in his absence".*** *It was further held that in such a case the appeal filed by the counsel on the basis of the power-of-attorney executed by the absconder in favour of a person before his absconsion was not properly constituted and the Court could dismiss the appeal filed on the basis of such a power-of-attorney on this ground alone; and*
>
> *(4) …"*
>
> **Emphasis supplied.**

7. The above pronouncement lays down the controlling principles governing the controversy. It unequivocally affirms that a convict who deliberately remains beyond the reach of the law cannot simultaneously invoke the appellate jurisdiction of the Court. The requirement of surrender is not an empty procedural formality; rather, it is a substantive condition rooted in the administration of criminal justice, ensuring that the judicial process is neither frustrated nor rendered one-sided by permitting a fugitive from law to seek relief while continuing to evade execution of the sentence impugned before the appellate forum.

8. The above principle received further authoritative affirmation in *Muhammad Adnan alias DANA v. The State* (2015 SCMR 1570), wherein the august Supreme Court, while interpreting the first proviso to Rule 8 of Chapter XXIII of the Supreme Court Rules, 1980, held as under:

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"3 A bare reading of the above mentioned **first proviso to Rule 8 of Order XXIII of the Supreme Court Rules, 1980 makes it abundantly clear that a criminal petition is entertainable by the office of this Court only after a surrender is made by the petitioner to an order of imprisonment outstanding against him and after entertaining of such a petition after such surrender to the order of imprisonment this Court may stay execution of the order of imprisonment or fine. Surrender to an order of imprisonment is, thus, a condition precedent for entertainment of such a petition and it is only after a valid and proper entertainment of such petition that the relief regarding stay of execution of the order for imprisonment or fine can be granted**. It is also quite clear that the requirement of surrender to an order of imprisonment pertained only to criminal petitions involving an order of imprisonment (e.g., cases where a conviction has been recorded or upheld and an express order has been passed that the petitioner may be taken into custody or cases where bail of the petitioner has been disallowed or cancelled and an order had been passed that he may be taken into custody and the same did not apply to criminal petitions seeking bail before arrest in a criminal case where no order of imprisonment had so far been passed... **It goes without saying that surrender to an order of imprisonment is not the same thing as surrendering before a higher court without actually being imprisoned in compliance of a judicial order passed in that** regard. In this view of the matter we have entertained no manner of doubt that the present petition filed by the petitioner is not entertainable till he surrenders to the above mentioned orders of imprisonment, as made explicit by the first proviso to Rule 8 of Order XXIII of the Supreme Court Rules, 1980. Reliance placed by the

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> learned counsel for the petitioner upon the case of Mazhar Ahmed v. The State and another (supra) has been found by us to be inapt because in that case no discussion was made about the provisions of the first proviso to Rule 8 of Order XXIII of the Supreme Court Rules, 1980 and at the fag end of the judgment passed by this Court in that case a reference was made to the second proviso to Rule 8 of Order XXIII of the Supreme Court Rules, 1980 in the context of a precedent case cited before the Court. The judgment passed by this Court in that case is not relevant to the point in issue in the present petition because what is relevant to the present petition is the first proviso to Rule 8 of Order XXIII of the Supreme Court"
>
> **Emphasis supplied.**

9. The cumulative effect of the above pronouncements of the august Supreme Court, as reaffirmed by this Court in **Malik Muhammad Umar Khan v. Mst. Saadia Bibi and others (2025 PCRLJ 661 [Islamabad])**, admits of no exception: where an executable order of imprisonment is outstanding, surrender before the Court competent to execute the sentence is a condition precedent to the entertainment of appellate proceedings.

10. In the present case, it is an admitted position that the appellant absented himself before the pronouncement of judgment, whereupon his bail bonds were cancelled and process was issued for execution of the sentence. Admittedly, he has not surrendered before the learned trial Court thereafter. In these circumstances, he cannot seek to invoke

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the appellate jurisdiction of this Court while remaining outside the execution of the sentence.

11. The Court is presently not concerned with the merits of the conviction or the accompanying appeal, which has yet to be entertained. The only question is whether the office was justified in raising the objection. In view of the settled law noticed above, the objection is legally well-founded and is accordingly **sustained.**

(INAAM AMEEN MINHAS)
JUDGE

Sanaullah*

Approved for Reporting.

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