

PESHAWAR HIGH COURT, PESHAWAR.

FORM OF ORDER SHEET

Date of Order of Proceedings	Order or other Proceedings with Signature of Judge (s)
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04.11.2025	<p><u>W.P.No. 8357-P/2025.</u></p> <p>Present: Mr. Muhammad Muazzam Butt, Advocate, for the accused-petitioner.</p> <p>***</p> <p><u>MUHAMMAD FAHEEM WALI, J.-</u> Through the petition in hand filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, petitioner (Sahibzada Muhammad Hamid Raza) has sought the following relief:-</p> <p><i>“In view of the foregoing facts and grounds, it is most respectfully prayed that this Hon’ble Court may graciously be pleased to:</i></p> <p><i>I. Grant protective / transitory bail to the petitioner in case FIR No. 832/2023 registered under Sections 324 / 353 / 186 / 440 / 436 / 427 / 341 / 290 / 291 / 505 / 188 / 148 / 149 / 34 / 337-A(i) / 337-A(ii) / 337-F(i) / 337-L(ii) / 107 / 109 / 120-A / 121 / 121-A / 131 / 146 / 153 / 153-A / 153-B of the Pakistan Penal Code (PPC) read with the relevant provisions of the Punjab Arms (Amendment) Ordinance 2015, the Punjab Maintenance of Public Order, 1960, the Pakistan Army Act, 1952, the Official Secrets Act, 1923 and the Anti-Terrorism Act, 1997 for a reasonable period as deemed appropriate by this Hon’ble Court;</i></p> <p><i>II. Direct that the petitioner shall not be arrested, harassed or obstructed by the police or any other</i></p>

law enforcement agency during the subsistence of such protection, so as to enable him to approach the competent appellate forum for filing his statutory appeal against the judgment dated 31.07.2025;

III. *Grant any other relief deemed just, fair and in the interest of justice.”*

2. Facts of the case, in brief, are that the petitioner, a sitting Member of the National Assembly, was implicated along with others in case FIR No. 832/2023 dated 31.07.2025, registered under the abovementioned provisions of law at Police Station Civil Lines, Faisalabad. After a full dress trial, the learned Judge, Anti-Terrorism Court, Faisalabad, vide judgment dated 31.07.2025, convicted and sentenced the petitioner along with his co-accused. The petitioner has now approached this court, seeking the concession of protective/transitory bail by asserting that he has been subjected to lawfare motivated by *mala fide* intentions. It is contended that the relief sought is not intended to evade or hinder the due process of law but merely to enable him to appear before the competent appellate forum to challenge his conviction. The petitioner further maintains that he is a victim of political victimization and that the proceedings culminating in his conviction were actuated by *mala fide* motives, aimed at humiliating, harassing and incapacitating him from discharging his constitutional duties.

3. We have heard preliminary arguments of learned counsel for the petitioner and gone through the record with his able

	<p>assistance.</p> <p>4. Although learned counsel for the petitioner while placing reliance on different orders of this court passed in constitutional petitions contended that superior courts of Pakistan have consistently held that protective bail can be granted in extraordinary circumstances to enable an accused person to surrender before the competent court without harassment or obstruction by the police or law enforcement agencies, however, it is important to be noted that every case has its own facts and circumstances and the case in hand is altogether different from the cases relied upon by learned counsel for the petitioner.</p> <p>5. Before proceeding to meet the points raised by learned counsel for the petitioner, it is imperative to distinguish between the relief of transit or protective bail ordinarily sought by an accused person before appearance in a case registered in another Province, and the so-called protective bail claimed after a case has been finally adjudicated upon, resulting in conviction or acquittal by a competent court. The two situations are not akin either in nature or in legal consequence. Transit or protective bail at the pre-arrest stage is a judicially changed mechanism aimed at ensuring the protection of fundamental right to liberty of an individual as enshrined under Article 9 of the Constitution of the Islamic Republic of Pakistan, 1973. It is an extraordinary, equitable and interim measure devised to prevent abuse of</p>
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	<p>process or misuse of police powers in situations where an accused, residing or present in one Province, apprehends arrest in connection with an FIR or criminal proceedings instituted in another Province. The purpose of such bail is merely to provide safe passage to the accused for a short and limited duration, enabling him to approach the court of competent territorial jurisdiction for the purpose of seeking regular pre-arrest bail under Section 498 Cr.P.C. Such relief neither confer any vested right nor touches upon the merits of the accusation rather it simply protects the liberty of the person concerned until his appearance before the proper forum. Jurisdiction exercised in such instances is not substantive but ancillary, founded on humanitarian and constitutional considerations and remains strictly confined to safeguarding personal liberty for a temporary period without imposing upon the territorial jurisdiction of the court where the matter is actually pending.</p> <p>6. In contrast, once a competent court of law has concluded the trial or appellate proceedings and rendered a judgment of conviction or acquittal, the situation stands materially altered. The individual ceases to be merely an accused and assumes the legal status of a convict or acquitted person, as the case may be. The subsequent custody or liberty of such person emanates from a judicial order passed by a court of competent jurisdiction, not from any apprehension of arbitrary arrest by law enforcement authorities. At this stage, the appropriate</p>
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	<p>remedy available to the aggrieved person lies exclusively before the appellate or revisional forum having territorial and subject-matter competence to examine the legality, propriety or correctness of such judgment. A High Court situated in another Province, having no nexus either with the proceedings or with the situs of the offence, is constitutionally devoid of jurisdiction to interfere directly or indirectly with the execution, suspension or enforcement of a judicial sentence or acquittal rendered by a coordinate High Court or subordinate court of another Province. Protective bail sought against the backdrop of a final judgment of conviction is, therefore, legally misconceived. The jurisdictional competence of a High Court under Article 199 of the Constitution cannot be invoked to suspend or neutralize the effect of a lawful conviction delivered by a court exercising territorial jurisdiction over the matter. Entertaining such a plea by a High Court of another Province would amount to encroachment upon the judicial authority and territorial domain of the competent court, thereby offending the constitutional scheme of separation of jurisdiction under Article 199(1)(a) and (b). The concept of protective bail, which was intended merely as a transitory safeguard in pre-arrest situations, cannot be expanded to cover post-conviction scenarios, as doing so would negate the settled principle that the execution of a judicial sentence flows from the authority of law and not from administrative discretion, thus, the relief of protective or transit</p>
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	<p>bail remains confined to cases where the accused has not yet been apprehended and seeks to appear before the competent court for the first time in connection with a pending inquiry or investigation. It cannot be extended to shield a convict from lawful arrest or execution of sentence arising out of a final judgment delivered by a court of competent jurisdiction. The distinction, therefore, is clear, substantive, and rooted both in the constitutional limitation of territorial jurisdiction and in the legal status of the person seeking such relief.</p> <p>7. However, in exceptional cases, where the accused-convict is either tried in absentia or, at the time of conviction, is on bail and has been granted exemption from personal appearance, not being present before the Court, and upon learning of his conviction, intends to challenge it and surrender before the appropriate Court while apprehending arrest pursuant to the conviction, he may approach the constitutional court of competent jurisdiction seeking an order for deferment of arrest. Such an order would enable him to avail his statutory remedy before the appropriate forum. This is because access to justice is a fundamental right of every citizen of Pakistan, as held in <i>Baz Muhammad Khan Kakar's</i> case reported in [PLD 2012 SC 923], and such rights cannot be abridged merely due to conviction. In such circumstances, the constitutional court of competent jurisdiction may grant deferment of arrest for a reasonable period, allowing the convict to approach and surrender before</p>
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	<p>the appropriate appellate court. However, in the present case, the petitioner was convicted by the learned Judge, Anti-Terrorism Court, Faisalabad, in Sessions Case No. 43/ATC/FSD/2023 and Sessions Trial No. 77/ATC/FSD/2024, vide judgment dated 31.07.2025. The petitioner is a permanent resident of Tehsil Faisalabad; therefore, there is no occasion for him to approach this Court for the desired relief, particularly at this belated stage.</p> <p>8. In view of the above, we are not inclined to interfere in the matter; hence, this petition is dismissed.</p> <p><i>J U D G E</i></p> <p><i>J U D G E</i></p>
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