

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

C.P. No.D-2401 of 2017.

C.P. No.D-3688 of 2017.

C.P. No.D-2229 of 2019.

DATE	ORDER WITH SIGNATURE OF JUDGE
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09-11-2021

Mr. AyatullahKhowaja advocate for petitioner in C.P. No.D-2401/2017.
Mr. Sarmad Hani advocate for petitioner in C.P. No.D-3688/2017.
Mr. Jangu Khan Special Prosecutor NAB.
Mr. Muhammad Ismail Bhutto, Additional Advocate General, Sindh.
Mr. Zulfqiar Ahmed Rajput, Assistant Attorney General.
Inspector NizamuddinShaikhSHOFIA Hyderabad.

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MUHAMMAD IQBALKALHORO, J:-Petitioners' name was placed in Exit Control List (ECL) vide memorandum dated 16.08.2016 on account of pendency of investigation by NAB which has since culminated into a reference No.02/2018 pending before Accountability Court at Hyderabad. These petitions have been filed by the petitioners for direction to the Federal Government to remove their name from ECL as the travel ban within or out of country is against their fundamental rights enshrined in the Constitution. Learned defence counsel have reiterated the same facts in their arguments.

Learned Special Prosecutor NAB has opposed these petitions but has not denied that reference has been filed in the Court.

While deciding identical petitions at Karachi like C.P. No.D-5083 of 2019 and others this Court has observed that it has been settled that mere pendency of a criminal case would not ipso facto disentitle a person from traveling abroad, and his right to movement and liberty guaranteed under the constitution would not be curtailed, and, therefore the impugned restriction was considered non maintainable in law and set-aside. In these petitions also the issue is identical and when the impugned action was taken against the petitioners, the investigation was pending against them, which since has culminated into a reference filed before the Accountability Court at Hyderabad. Their movement within or outside of the country therefore be

better left to be regulated by the said court, where their presence is required.

In the circumstances, the petitioners are allowed as prayed. Nonetheless, the petitioners when intend to travel abroad shall have to seek permission from the trial court on the terms and conditions to be decided by it, if at all it accedes to such a request for ensuring unhindered proceedings in their absence and securing their presence back in the trial in due course of time.

JUDGE

JUDGE

Irfan Ali