

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

C.P. No.D-1309 of 2018.

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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For orders on office objection.  
For Katcha peshi.

Present:  
Mr. Justice Muhammad Junaid Ghaffar.  
Mr. Justice Amjad Ali Sahito.

Date of hearing: 13.6. 2018.

Date of order: 13.6. 2018.

Mr. Jawaid Mir Shaikh, Advocate for the petitioner.  
Mr. Jangu Khan, Special Prosecutor NAB.

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**AMJAD ALI SAHITO, J-** Through instant petition, the petitioner namely Bachu Mal s/o Chatru Mal seeks post arrest bail in Reference No.01 of 2018 re: State v. Bachu Mal filed by the NAB authorities before the Accountability Court No.VI, Hyderabad.

2. Precisely the allegation against the petitioner Bachu Mal is that he was appointed in the year 1981 as Junior Clerk in the District Education Office Mirpurkhas. Over the period of time, he was promoted to Senior Clerk and then Office Superintendent (BPS-16). Prior to this the petitioner was tried for offence of corruption and corrupt practice by way of illegal/bogus appointment in the Education Department Mirpurkhas vide Reference No.21 of 2016 Re:State Vs. Munatazir Mehendi & others pending before the trial court. As per record the petitioner had received Rs.6,961,828/- in terms of his salary and other benefits from the year 1981 to-date, whereas his wife had earned Rs.10,833,379/-. Further, as per the enquiry the details of amount deposited in the bank accounts of the

accused/petitioner and his family members from 1999 to 2017 are as follows:-

Sr. No.	Account title	Account No.	Bank/branch	year	Amount deposited (in Rs.)
1	Bachu Mal s/o Chatru Mal	0076-00531378-01	HBL Bank road Branch Mirpurkhas	2005-2017	28,113,908
2	Mst. Durga Bai w/o Bachu Mal	0604-51-32-31001280	MCB Jail Road Branch Hyderabad	2012-2017	17,263,998
3	Mst. Durga Bai w/o Bachu Mal	0076-00531406-01	HBL Bank road Branch Mirpurkhas	2005-2017	18,788,474
4	Bachu Mal and Mst. Durga Bai	3051842477	NBP Main Branch Mirpurkhas	1999-2017	9,215,180
5	Dileep Kumar s/o Bachu Mal	01381500007577	Faysal Bank Saddar Branch Hyderabad	2010-2017	8,909,562
6	Dileep Kumar s/o Bachu Mal	01022164996	Soneri Bank Main Branch Hyderabad	2005-2017	6,832,286
7	Hitesh Kumar s/o Machu Mal	01381500007576	Faysal Bank, Saddar Branch Hyderabad	2010-2017	6,191,264
8	Reeta Bai w/o Dileep Kumar	1043-79004803-01	HBL Jail Road Branch Hyderabad	2013-2017	5,604,792
9	Darshna Devi w/o Hitesh Kumar	1043-79007802-01	HBL Jail Road Branch Hyderabad	2013-2017	7,049,050
			Total amount deposited		107,968,514
			Less intra account transactions & salaries		10,146,672
			Less payments made for purchase of property		29,080,000
			Unjustified bank transactions		68,741,842

The investigation further reveals that the petitioner/accused has purchased following immovable properties in Hyderabad and Mirpurkhas during the period of his service, details of which given below:

Sr. No.	Property details	Name of owner/seller	Year of Purchase	Purchase Price (in Rs.) as per sale agreement	Rental income (in Rs.) as per Rent agreement
1	Flat No.D-5 2 <sup>nd</sup> floor Unique Centre Hirabad Hyderabad	Waseem Ahmed s/o Allah Bachayo	2011	2,200,000/-	--
2	Flat No.8 1 <sup>st</sup> floor Hirabad Centre Hyderabad	---	2012	2,100,000/-	--
3	Flat No.2 1 <sup>st</sup> floor Amir Palace, Hirabad Hyderabad	Waseem Ahmed s/o Allah Bachayo	2012	2,000,00/-	--
4	Flat No.5 & 6 2 <sup>nd</sup> floor Shaheed Atiqullah Heights Hyderabad	Mrs. Nasreenw/o Attaullah	2012	1,650,000/-	12000/- per month (one flat)
5	Flat No.12 3 <sup>rd</sup> floor Memon Heights Luxury Apartment Plot No.A-6 Qasimabad Hyderabad	Zubari Ahmed s/o Ghulam Nabi	2013	2,800,000/-	--
6	Flat No.33-115 Roshan Shopping Garden Mirpurkhas	Mohan Lal	2014	1,275,000/-	6000/- per month
7	House No.123 Meer Farm colony Mirpurkhas	Niaz Muhammad s/o Mirsi Kerio	2014	2,350,000/-	--
8	Plot No.P-186 Rahim Nagar Mirpurkhas	Mst. Saeeda w/o Muhammad Ibal Memon	2015	3,500,000/-	---
9	Flat No.17, 18, 19 and 20 5 <sup>th</sup> floor Shaheed Atiqullah	Mrs. Nasreen w/o Attaullah	2015	7,200,000/-	--

	Heights Hyderabad				
10	Flat No.3 1 <sup>st</sup> floor Sadaf Centre Tando Wali Muhammad Hyderabad	Dhanraj Mal s/o Leeela Ram	2016	3,750,000/-	13000/- per month
11	Flat No.15, 3 <sup>rd</sup> floor Sadaf Centre Hyderabad	Haji Ghulam Sarwar s/o Haji Jan Muhamma d	2016	3,450,000	12000/- per month
12	Plot No.27 Rev.Survey No.627 Mehran Homes Qasimabad Hyderabad	Farhanulla h s/o Hidayatull ah Kerio	2016	8,000,000/-	36000/- per month
13	Flat in Ashfaq Corner Tando Wali Muhammad Hyderabad	Aftab	2016	2,00,000/-	11500/- per month
14	Flat No.13 3 <sup>rd</sup> floor Sanam Centre Tando Wali Muhammad	Fayaz Ali Shah	2017	3,850,000/-	--
		Total amount		46,125,000	90,500/- per month

During the course of inquiry/investigation on source of information search was carried out at the residence of the petitioner, after obtaining search warrant U/s 96 Cr.P.C from the concerned Magistrate the following movable and immovable properties were recovered/seized.

a. Movable assets:

- i. Prized Bonds (different denominations) worth Rs.25,3225 Million
- ii. Saving certificates worth Rs.5 Million
- iii. Postal Life Insurance worth Rs.2 Million

b. Immovable assets:

- i. Sale agreements/deeds of various flats across Hyderabad, Mirpurkhas and Karachi worth more than Rs.30. Million including the following.

- a) Flat No.33-115 Roshan Shopping Garden Mirpurkhas

- b) Plot No.P-186 Rahim Nabar Mirpukhas
- c) Plot No.27 R.S.No.627 Mehran Homes Qasimabad Hyderabad.
- d) Flat No.15, 3<sup>rd</sup> floor Sadaf Centre Tando Wali Muhammad Hyderabad
- e) Flat No.3 1<sup>st</sup> floor Sadaf Centre Tando Wali Muhammad Hyderabad
- f) Flat No.13 3<sup>rd</sup> floor Sanam Centre Tando Wali Muhammad
- g) Flat No.8 1<sup>st</sup> floor Hirabad Centre Hyderabad
- h) Flat No.134 and floor City Survey No.162/2 Nisar Building Jail Road Hyderabad.
- i) Flat No.2 1<sup>st</sup> floor Mehran Apartment Hirabad Hyderabad
- j) Flat No.5 & 6, 2<sup>nd</sup> floor Shaheed Atiqullah Heights Hyderabad
- k) Flat No.17, 18, 19 and 20 5<sup>th</sup> floor Shaheed Atiqullah Heights Hyderabad
- ii. purchase receipts of Motor vehicles worth more than Rs.1.5 Mill.

The finally total liability of the petitioner/accused is determined on the basis of cash flow chart given below:-

Sr.No.	Description(a)	Amount Credited (b)	Salary (c)	Net Liability (b-c)
1	Unjustified Bank Transactions	78,999,514/-	10,146,672/-	68,741,42/-
2	Cash Flow chart	--	--	16,906,788
3	Recovery during house search	--	--	30,322,500
			Net liability	115,971,130/-

3. In view of above it has been established that the petitioner/accused has been accumulated assets of Rs.11,59,71,130/- which were found beyond known source of income for which petitioner/accused could not justify the legal sources. Thus reference was filed against the petitioner.

4. Prior to this the petitioner filed a constitutional petition No.D-3655/2016 for grant of pre-arrest bail which was dismissed by this court vide order dated 27.09.2017 and on same date he was arrested.

5. Learned counsel for the petitioner contended that the petitioner is innocent and has falsely been implicated in this case; that petitioner has earned the entire property as well as bank balance from his business of sale and purchase of the property; that prosecution has examined 10-witnesses and they have not implicated the petitioner in any manner in this reference; that there are general and vague allegations against the petitioner without assigning any specific role against him in the reference. He, therefore, prayed for grant of bail. He relied upon the case of Muhammad Nadeem Anwar & another Vs. National Accountability Bureau & others reported in PLD 2008 SC-645 and unreported cases of Ghulam Qadir Rajper Vs. Federation of Pakistan C.P.No.D-2736 of 2016, Muhammad Iqbal Vs. Federation of Pakistan C.P.No.D-28 of 2017, Anwar Ali Thebo Vs. National Accountability Bureau (NAB) & others C.P.No.D-3033 of 2016 and Lachman Das & another Vs. Federation of Pakistan C.P.No.D-1660 of 2016

6. Learned Special Prosecutor NAB opposed the grant of bail on the ground that on the pointation of the petitioner a huge cash, prize bonds, saving certificates and postal life insurance as well as documents of immovable assets were recovered for which he could not offer any plausible explanation; that there is sufficient material against the petitioner in the shape of documentary evidence and he is not entitled for grant of bail.

7. We have considered the submissions of the parties and have perused the material available on record including the case law cited at bar. The petitioner was working as Office Superintendent in BPS-16 in Education Department and he was arrested on 27.09.2017. The raid was conducted at his residence situated at Hyderabad after obtaining search warrant from concerned Magistrate, the Investigating Officer recovered Prize bonds (different denomination) worth of Rs.25.3225 Million, saving certificates worth of Rs.5.Million and Postal life insurance worth of Rs.2 Million, the

documents of multiple movable and immovable property worth of Rs.30-Millions including 9-flats situated in different cities viz. Mirpurkhas, Qasimabad Tando Wali Muhammad Hyderabad, motor vehicle worth of Rs.1.5 million. The total liability of the petitioner determined by the Investigating Officer is Rs.11,59,71,130/-. The documentary and other evidence available on record does not tally with the known sources of income of the petitioner and it rather seems to connect the petitioner with the alleged offence. In this reference 10-witnesses have been examined by the trial court and near future the trial will be completed, in these circumstances any observation regarding merit or otherwise at this stage would prejudice the case of either parties. In this context the reliance is placed upon the case of Muhammad Nawaz Vs. The State which is reported in 2002 SMCR-1381 wherein Honourable Supreme Court has held that:

“since, the trial is liable to be concluded in the near future as such, we are deliberately not attending to the merit of the case least it may prejudice the case of either party. In this view of the matter, we are not inclined to grant concession of post arrest bail to the petitioner at this stage”.

Therefore, we are of the view that prima facie sufficient material is available on record to connect the present petitioner with the commission of alleged offence hence the petitioner Bachu Mal has not been able to make out the case for grant of bail. Accordingly the petition was dismissed by us vide shot order dated 13.6.2018.

JUDGE.

JUDGE.