

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

C.P.No.D- 3377 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection.
2. For Katcha Peshi.
3. For hearing of MA 14173/2017.

01.03.2018.

Petitioner is present on interim pre-arrest bail.

Mr. Gulraiz Memon, Advocate for petitioner.

Mr. Jangu Khan, Special Prosecutor NAB alongwith Aslam Parvez Abro Assistant Director/IO NAB Karachi (now promoted as Deputy Director NAB Karachi).

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Through this constitution petition, petitioner has assailed the legality and propriety of impugned order dated 18.10.2017 passed by learned trial court in Reference No. Nil of 2016 (Re-The State v. Abdul Jaleel Thebo and others), whereby the learned trial court after hearing the learned counsel for the parties dismissed the application filed by NAB authorities u/s 9 (c) of National Accountability Ordinance, 1999 for closure of the investigation and directed I.O. of the case to submit reference before the court within three weeks, that order has been impugned before us.

It appears from the record that this petition was filed on 30.10.2017 alongwith application for granting interim relief/interim pre-arrest bail in favour of the petitioner. It also appears from the record that on the said date this court while granting ad-interim pre-arrest bail to the petitioner passed the following order:-

***“It is, inter alia, contended that the petitioner is apprehending his arrest due to direction of N.A.B Court on an application filed by Investigating Officer under section 9 (c) of NAO, 1999 for closure of investigation, whereby the learned N.A.B Court has disagreed with the opinion of I.O and directed him to submit the reference against the petitioner and others within a period of three weeks.*”**

Without touching merits of the case, petitioner is admitted to ad-interim pre-arrest bail, subject to his furnishing solvent surety in the sum of Rs.3,00,000/- (Rupees three thousand only) and PR bond in the like amount to the satisfaction of Additional Registrar of this court. However, as soon as the reference is filed, the petitioner shall join the trial.”

In compliance of the said order, one Humair Niaz stood surety for the petitioner and thereafter this petition is being adjourned from time to time for confirmation of the interim pre-arrest bail or otherwise. It also reveals from the record that during pendency of this petition, I.O. of the case filed parawise comments, stating therein that the impugned order dated 18.10.2017 passed by learned trial court in reference No. Nil of 2016 (State v. Abdul Jaleel Thebo and others) may be set aside. The I.O. of the case and the Special Prosecutor NAB are present in court today. They have been given sufficient time to file the specific comments regarding the submission of NAB reference or otherwise but they have stated that NAB authorities do not want to file any reference against the petitioner before the trial court. Therefore, under the circumstances, we have come to the conclusion that in view of the ground taken by the I.O. before the learned trial court, the application filed by I.O. should have been allowed but instead of that has been refused. The petitioner is appearing in this case without any substantial progress before this court or before the trial court for submitting the NAB reference. Under the circumstances and in view of the comments submitted by I.O of the case, impugned order dated 18.10.2017 stands set aside/ recalled. Nothing is pending adjudication against the petitioner in this case, therefore, instant petition is allowed alongwith listed application. Resultantly, the ad-interim pre-arrest bail already granted to the petitioner has become infructuous.

JUDGE

JUDGE