

*ORDER SHEET*  
**IN THE HIGH COURT OF SINDH, CIRCUIT  
COURT, HYDERABAD.**  
C.P.No.D-3019 of 2018

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DATE

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ORDER WITH SIGNATURE OF JUDGE

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1. For orders on office objection.
2. For hearing of main case.

21.08.2019.

Mr. Muhammad Yousif Leghari, advocate for petitioner.

Mr. Ghous Bux Mahar, Special Prosecutor NAB.

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It is alleged that the petitioner while posted as Office Superintendent at Bureau of Curriculum & Extension Wing (BC&EW) Sindh at Jamshoro with rest of the culprits by way of fake and bogus PLA Cheques in name of dummy contractors misappropriated the public money worth millions of rupees and then started to live in luxurious life style and on due enquiry and investigation was booked by National Accountability Bureau by way of filing a reference against him to face trial for the said offence before the court having jurisdiction.

The petitioner during pendency of trial sought for his release on bail by way of filing such petition it was dismissed by this court vide order dated 15.05.2018, with direction to learned trial court to conclude the trial against the petitioner within three months positively. It could not be concluded and it is these circumstances the petitioner has sought for his release on bail again by way of instant constitutional petition.

It is contended by learned counsel for the petitioner that the petitioner being innocent has been involved in this case falsely; the prosecution has not been able to conclude its trial against the petitioner within the time fixed by this court, as such according to him, the petitioner is entitled to be released on bail, on point of hardship. In support of his contention he relied upon case of ***Arshad Khan vs Chairman NAB (2017 P.Cr.LJ 1276)***.

Learned Prosecutor for NAB and learned A.A.G have sought for dismissal of the instant constitutional petition by contending that the case is proceeding but accused are defeating its conclusion by seeking frequent adjournments, for one or other reason and co-accused Sikander Ali has already been refused bail by Hon'ble Supreme Court of Pakistan.

We have considered the above arguments and perused the record.

There is no denial to the fact that the petitioner has been refused bail by this court on merit and co-accused Sikander Ali has not pressed his application for his release on bail before Hon'ble Supreme Court of Pakistan. As per report which is furnished by learned trial court the case against the petitioner and others is proceeding and evidence of nine witnesses has been recorded and the accused involved in the reference defeating the conclusion of the case for one or other reason. In these circumstances, the petitioner could not be ordered to be released on bail on point of hardship. Even otherwise, there was nothing in order of this court which may suggest that in case the trial against the petitioner is not concluded

within three months then he could be admitted to bail as a matter of right.

The case law which is relied upon by learned counsel for the petitioner is on distinguishable facts and circumstances. In that case the first bail application of the accused was dismissed on the basis of commitment of the Senior Prosecutor NAB that the trial shall be concluded within 90 days. In the instant matter no such commitment was advanced by learned Prosecutor for the NAB.

In view of above, the instant petition for release of the petitioner on bail is dismissed with direction to learned trial court to expedite disposal of the case against the petitioner within shorted possible time under intimation to this court.

JUDGE

JUDGE