

**IN THE HIGH COURT OF SINDH, KARACHI.**

Before:  
Mr. Justice Omar Sial,  
Mr. Justice Zulfiqar Ali Sangi,

**C.P.No.D-2139 of 2020**

Muhammad Rafique Tawakal.....Petitioner

**VERSUS**

NAB & others .....Respondents

Date of hearing: 04.06.2020  
Date of Order: 17.06.2020.

Mr. Muhammad Raghif Baqi, Advocate for the  
petitioner.

Mr. Zahid Hussain Baladi, Special Prosecutor  
NAB.

**ORDER**

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**ZULFIQAR ALI SANGI, J.** The petitioner named above seeks his post-arrest bail in the reference No.7 of 2004 titled as State V.s Abdul Qadir Tawakal & Others pending before the Accountability Court No.1, Karachi.

2. The brief facts of the prosecution case are that the Petitioner along with others being the Directors of the defunct M/s. Naya Daur Motors Ltd. (NDML) operating under the Tawakkal Group of Companies advertised in the media and invited members of the public at large including the banks and DFI's to book KIA Pride vehicles/motor cars through seventeen authorized dealers based at Karachi, Hyderabad, Quetta, Multan, Lahore, Rawalpindi, Islamabad, Peshawar, Mingora, and Kashmir. NDML booked a total of 16120 cars on the down payment of Rs.39,000/- for a standard

model and Rs.49,000/- for an air-conditioned model of KIA Pride vehicles and also received full payment for 645 units at the rate of Rs.3,00,000/ per unit. It was alleged that the accused collected an amount of Rs.85,24,30,325-/- in total. The NAB on the receipt of information that accused have cheated the public at large and dishonesty / intentionally misappropriated the amounts entrusted to them by failing to deliver the cars so booked, an investigation was authorized and after completing the investigation the investigation officer submitted the investigation report on such basis reference was filed.

3. Mr. Muhammad Raghیب Baqi learned counsel for the petitioner contended that petitioner went abroad in the year 1998 and the reference was filed by the NAB authorities in the year 2004; therefore, he was not in knowledge about the filing of reference. He further contended that when the petitioner came to back Pakistan he was arrested at Karachi Airport on 11.04.2020 by the NAB authorities, he further contends that there is no incriminating piece of evidence against the petitioner which connect him with the offence. Lastly, he contended that the other co-accused have earlier been granted bail by this Court. In these circumstances, he prayed for a grant of bail especially on rule of consistency.

4. Mr. Zahid Hussain Baladi, Special Prosecutor NAB has opposed the grant of bail on the ground that the petitioner was absconder / fugitive from the law; therefore, he is not entitled to grant of bail, however, he conceded that other co-accused nominated in the reference which includes the main accused i.e Abdul Qadir Tawakal having similar role are on bail. He relied upon the case of the **National Accountability Bureau through**

**Chairman V. Murad Arshad and others** (2019 PLD Supreme Court 250).

5. Admittedly the petitioner was out of the country and was arrested on his arrival in Pakistan from the Airport which is also evident from the application filed by the NAB before the NAB court Karachi for his remand. Learned special prosecutor NAB also admits that the petitioner was arrested before the conclusion of the proceedings under section 87 & 88 Cr.P.C.

6. All the co-accused which includes Abdul Qadir Tawakal have already been granted bail by this court and the same has not been challenged by the NAB before Honourable Supreme Court. It is true that a person who has remained an absconder will lose some of his rights but in the circumstances of the present case and also keeping in view the fact that petitioner was not declared as an absconder coupled with the fact that the allegations against the petitioner still need to be proved at trial.

7. The case law relied upon by the learned special prosecutor NAB wherein Honourable Supreme Court has discussed the merits of the case whereas in the present petition the petitioner seeks his post-arrest bail on the ground of rule of consistency and in the instant case we found that about 16 years have been passed but the trial of the case not been completed. On the arrest of the petitioner, all the witnesses examined by the trial court are to be re-examined and it will again take time in conclusion which may cause injustice with the petitioner to keep him in jail for an indefinite period, therefore, we have taken a lenient view.

8. In view, thereof the petitioner has made out his case for grant of his post-arrest bail on the ground of rule of consistency and therefore admitted to bail subject to furnishing his solvent

surety in the sum of Rs 1000000/= (one million) and PR bond in the like amount to the satisfaction of Registrar of this court.

7. We observed that the reference was filed in the year 2004 and the same has not been decided by the National Accountability Court till yet, therefore, in these circumstances, we direct the National Accountability Court No-1 Karachi to decide the case expeditiously.

8. The petition is disposed of in the above terms.

JUDGE

JUDGE