

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

Present:

Mr. Justice Muhammad Iqbal Kalhoro.
Mr. Justice Khadim Hussain Tunio.

C.P No.D-443 of 2020

Abdul Ghaffar ----- Petitioner.
Versus

The Chairman
National Accountability Bureau
Islamabad and others. ----- Respondents.

Date of hearing: 19.05.2020

Date of decision: 19.05.2020

Petitioner: Through:
Mr. Ishrat Ali Lohar Advocate.

NAB: Through:
Mr. Jangu Khan, Special Prosecutor NAB.

:-:-:-

ORDER

MUHAMMAD IQBAL KALHORO, J:- Petitioner is seeking admission to post-arrest bail in Reference No.04/2019, pending before the Accountability Court No. VI at Hyderabad.

2. Allegations against the petitioner in brief are that he purchased a land measuring 13-32 acres situated in Deh Seri Taluka Qasimabad District Hyderabad from Dr. Farah Illahi wife of Liaquat Ali vide registered sale deed. Over the said property M/s Gold Star Builders and Developers had already announced a project under the name and style of Indus Town Housing Scheme which was subsequently changed to Memon City Housing Scheme by present petitioner. Petitioner also claimed to have purchased an additional area of 13.32 acres from Mir Imran Ali and Syed Muhammad Ali Shah who has executed a General Power of Attorney in favour of the petitioner. The petitioner then got himself involved in the said business of selling and booking of the plots to interested buyers and an issue of conversion of amenity plots and layout plan against him was brought to light.

3. Earlier to this petition, the petitioner filed C.P.No.240 of 2017 for pre-arrest bail, which was dismissed on merits vide order dated 21.08.2019 and subsequently he was arrested. Thereafter, he filed C.P.No.D-2147 of 2019 mainly on medical ground

which too was dismissed by this Court vide order dated 17.03.2020. The petitioner has brought this petition for the same relief by relying upon para-5 and 11 of the order of Honourable Supreme Court dated 07.04.2020 passed in Criminal Petition No.299 of 2020 (Raja Muhammad Nadeem vs the State and another). It may be mentioned that by the above order the Honourable Supreme Court has set-aside an omnibus order dated 20.03.2020 of Islamabad High Court Islamabad in criminal Misc. No.214 of 2020 granting bail to all under trial prisoners alleged to have committed offence not falling within the ambit of prohibitory clause and confined in jails within its jurisdiction on the ground of Covid-19 pandemic, and recalled bail granted there under. Along with the said order the order dated 26.03.2020 passed in W.P.No.985 of 2020 by the learned Islamabad High Court Islamabad granting bail to the accused involved in NAB cases was also set-aside and the bail granted thereunder was recalled.

4. Learned defence counsel while pointing to para-5 has urged that learned Attorney Generals' recommendations, that are, among others, *benefit shall firstly be extended to persons otherwise suffering from ailment or physical or mental disability; and benefit shall be extended to UTPs who are 55 years of age or older and then other male UTPs provided there is no history of past convictions* have been approved by the Honourable Supreme Court in para-11 of the said order and the case of the petitioner since falls under those categories, he may be granted bail.

5. Learned Special Prosecutor NAB has however opposed bail to the petitioners.

6. We have considered submissions of parties and perused material available on record. In our humble view, the suggestions made by learned Attorney General before the Honourable Supreme Court incorporated in para-5 of the aforesaid order on the one hand relate to only those offences which do not fall under prohibitory clause, etc. and are not relevant to NAB cases which is evident from their reading and on the other hand the bail of petitioner on medical grounds has already been dismissed by this Court;-

U.T.P's

“Accused persons charged for offences under non-prohibitory clauses or under vagrancy law or offences carrying less than three years sentence may be considered for bail subject to the following:-

(underlining is ours)

- (a) the benefit shall not extend in cases involving abuse/violent acts against children and women.
- (b) benefit shall first be extended to persons otherwise suffering from ailment or physical or mental disability.
- (c) benefit shall be extended to UTPs who are 55 years of age or older and then other male UTPs provided there is no history of past convictions.
- (d) benefit shall be extended to all woman/juvenile UTPs. Bail in the above cases may be extended on personal bond.

7. The above reproduction clearly shows that these recommendations are not meant to affect consideration of bail of accused in NAB cases on the ground of Covid-19 pandemic. More so the Honourable Supreme Court was pleased to set-aside the directions of the Islamabad High Court as well as High Court of Sindh regarding release of UTPs on the ground of COVID-19 pandemic and bail granted to all the accused/ convicts including bail to accused involved in NAB case was specifically recalled and the order in this regard passed by learned Islamabad High Court was set-aside. In presence of these specific directions of the Honourable Supreme Court and the scheme behind suggestions of learned Attorney General, we are of the view that petitioner has hardly a case for bail on the basis of directions / observations of the Honourable Supreme Court in para No.11 of aforesaid order. This being the position we do not find any merit in this petition and accordingly dismiss it along with listed application.

JUDGE

JUDGE

