

**IN THE HIGH COURT OF SINDH, AT KARACHI**  
**Cr. Bail Application No. 2008 of 2021**

Applicant : Muhammad Nusrat Vohra s/o Dawood,  
through M/s. Syed Mehmood Alam Rizvi,  
Hassan Sabir, Jazib Aftab, Advocates

Respondent : The State, through M/s. Chaudhry Waseem  
Akhtar & Muhammad Ahmed,  
Assistant Attorneys General.

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Date of hearing : 16.02.2022, 14.03.2022 & 15.03.2022  
Date of order : 15.03.2022  
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**ORDER**

**ZAFAR AHMED RAJPUT, J:-** Through instant Criminal Bail Application, applicant/accused Muhammad Nusrat Vohra s/o Dawood seeks post-arrest bail in Crime/FIR No. 12 of 2021, registered at P.S. FIA, State Bank Circle (SBC), Karachi under sections 168, 409, 109/34, P.P.C. r/w section 5(2) PCA-II, 1947 and section 3/4, Anti-Money Laundering Act, 2010 (Amended in 2020). His earlier application for the same relief bearing No. 12/2021 was dismissed by the learned Special Judge (Central-I), Karachi, vide order dated 22.10.2021.

2. Brief facts of the case as per aforesaid FIR are that, Enquiry No.20/2018 was registered at FIA, SBC, Karachi for suspicious transactions in the bank accounts of applicant. It transpired during enquiry that the applicant was appointed in National Bank of Pakistan (NBP) on contractual basis as Executive Vice President/Head of Treasury Department in August, 2000. His contract was renewed from time to time till February, 2016. He was promoted to the rank of Senior Executive Vice President in February, 2006 and posted on same working i.e. Head of Treasury Department, NBP and retired from the said post in February, 2016. During his service period, the applicant maintained following 05 PKR and 05 USD bank accounts in his own name and in the name of his wife Ms. Asiya Vohra wherein huge amounts were credited, as per details below:

**PKR 05 ACCOUNTS**

S. No.	BANK ACCOUNT IN PKR	TOTAL DEBIT	TOTAL CREDIT
1.	A/c No. 0330000123496012 title Muhammad Nusrat Vohra & Asiya Vohra in Faysal Bank Ltd., Abdullah Haroon Road, Karachi, opened on 24.11.2001	Rs.2206005/-	Rs.3045001/ -
2.	A/c No. 0100460829 title Asiya Vohra in Meezan Bank Ltd., I. I. Chundrigar Road, Karachi, opened on 12.04.2011.	Rs.818223809/-	Rs.938358419/-
3.	A/c No. 0100460828 title Muhammad Nusrat Vohra & Asiya Vohra in Meezan Bank Ltd., I. I. Chundrigar Rd, Karachi, opened on 12.04.2011.	Rs.114089166/-	Rs.115083737 /-
4.	A/c No. 000215078355 title Asiya Vohra in UBL, Stock Exchange Karachi, opened on 20.05.2014	Rs.4100581 13/-	Rs.410409312/-
5.	Old A/c No. 73334-7 changed by system into A/c No. 3000199036 title Muhammad Nusrat Vohra/Asiya Vohra in NBP, Main Br. Karachi, opened on 25.08.2000	Rs.260599738/-	Rs.281683236/-
	<b>GRAND TOTAL</b>	Rs.1605176831/-	Rs. 1748579699/-

**U.S Dollars (05 ACCOUNTS)**

BANK ACCOUNTS IN U.S Dollars	TOTAL DEBITS	TOTAL CREDITS
(1) A/c No. 00051005799704 title Asiya Vohra in Bank Al-Falah Main Br. Karachi, opened on 20.06.2017.	\$ 3,490,676/-	\$ 3,539,940/-
(2) A/c No. 00051005796597 title Muhammad Nusrat Vohra in Bank Al-Falah Main Br. Karachi, opened on 20.06.2017.		
(3) A/c No. 01350100465551 title Muhammad Nusrat Vohra/Asiya Vohra in Meezan Bank Ltd., Main Br. Karachi, opened on 22.04.2013.		
(4) A/c No. 0101114168 title Muhammad Nusrat Vohra in Meezan Bank Ltd., I.I Chundrigar Rd. Karachi, opened on 31.07.2013		
(5) A/c No. 0101316320 title Asiya Vohra in Meezan Bank Ltd., I.I Chundrigar Rd. Karachi, opened on 28.04.2014.		

It also surfaced that, while posted as S.E.V.P., NBP, the applicant on the basis of his CNIC and his wife Asiya Vohra on the basis of her CNIC had purchased UAE Dirham 4450 against Pak. Rupees 111,950/- and US Dollar 2070605/- against Pak. Rupees 216,395,935/- from 04.04.2012 to 08.03.2018 against approximately 87 transactions. Moreover, 400,000 USD were transferred by them from 15.06.2015 to 25.06.2015 from their Joint USD Account No. 0100465551 to their

account maintained at U.S.A at Fidelity Investments, P.O Box 770001, Cincinnati, OH 45277-0002. Keeping in view the income of the applicant and his wife, above mentioned credits in PKR and USD bank accounts and purchasing of USD, are not justified, as per details below:

**TOTAL INCOME OF MUHAMMAD NUSRAT VOHRA AND HIS WIFE ASIYA VOHRA:**

DESCRIPTION	MUHAMMAD NUSRAT VOHRA	ASIYA VOHRA
Estimated total gross income earned from service of BCC Emirates at UAE and Bank of America ( <i>Some documents are available and some are not available due to old record</i> ).	PKR 46,684 ,000/-	
Total Gross income from NBP Salaries, bonuses, gratuity and service benefits, etc.	PKR 277,105,714/-	
Approximately gross total gross income on capital gain (Sale/Purchase of shares.	PKR 9,492,956/	PKR 136,129,897/-
Approximately gross income on dividend of shares.	PKR 11,805 ,006/-	PKR 52,625,721/-
Total gross profit on Bank Deposits and gross profit on P.I.Bs (Pakistan Investment Bonds.	PKR 6,277 ,864/-	PKR 27,746,555/-
Total Tax deduction amount on aforesaid gross income.	PKR 49,362,449/-	PKR 15,301 ,060/-
Approximately total net income.	PKR 302,003,091/-	PKR 201,501,123/-

**GRAND TOTAL NET INCOME (AFTER TAXES) PKR 503,504,214/**

The applicant has accumulated the following assets during service in NBP, as declared by him in tax returns:

1. House No. 9, A/I, 3<sup>rd</sup> Sunset Street, Phase-II Extension DHA, Karachi.
2. Shop No.49/Lavish Shopping Mall, Clifton, Karachi.
3. Shop No. G-16, Emerald Tower, Karachi.
4. Shop No. G-17, Emerald Tower, Karachi.
5. Shop No. G-26, Emerald Tower, Karachi.
6. Shop No. G-115, Emerald Tower, Karachi.
7. Shop No. G-116, Emerald Tower, Karachi.

When total income of the applicant and his wife is taken into consideration including the income from BCCI, Bank of America, National Bank of Pakistan, Capital Gain on Shares, Dividend on shares and profit on deposit and PIB, their net income is Rs. 503,504,214/- which, if deducted from their total credits in their aforesaid 05 PKR accounts i.e. Rs. 1,748,579,699/-, their credits in aforesaid bank

accounts of Rs. 1,245,075,485/- is more than their combined total income of lifetime. The applicant was given fair opportunity to provide money trail along with documentary evidence, but he failed to do so. It has also come on record that the main function of the Treasury Management Group, National Bank of Pakistan was to purchase and then sell the shares of various companies. The applicant while posted as E.V.P and S.E.V.P was the Head of Treasury Management Group, NBP and engaged in purchasing and then selling the companies' shares on behalf of NBP. He in the capacity of public servant as E.V.P. and S.E.V.P/Head of Treasury Management Group, NBP by way of committing criminal breach of trust and abusing his official position, engaged himself in the trade of purchase and sale of shares for himself and his wife for their own benefits in conflict of interest and succeeded in crediting huge amounts in aforesaid 05 PKR bank accounts and routed the huge amounts in other accounts, converted and deposited in his 05 USD bank accounts and also purchased USD in huge amount, just for laundering his wealth/money and thereby committed offences under sections 168/409/109/34, P.P.C. r/w section 5(2) PCA-II 1947 and section 3/4 AML Act, 2010 (Amended in 2020), for that the aforesaid FIR was registered.

3. Learned counsel for the applicant has contended that the applicant is innocent and the investigation agency has falsely, malafidely and with ulterior motives registered a baseless FIR against him; that the employees of NBP are not public servants, therefore, they can do the trade as defined in Rule 3 of NBP (Staff) Service Rules, 1980; that the applicant was serving in NBP on the basis of contract available on file at Annexure 'B' which provides terms and conditions which was subsequently revised; that since the applicant is not a public servant, section 5(2) PCA-II 1947 r/w section 168, P.P.C. is not applicable; that the investigation agency has involved the applicant in a fishing enquiry with absurd allegations albeit he cooperated in enquiry and investigation; that not an iota of

evidence is available on record which could show that the applicant was entrusted any property which he dishonestly misappropriated or converted in his own use or disposed of it in violation of law of prescribing the mode in which such trust is to be discharged; hence, section 409, PPC was misapplied by investigating officer; that the entire prosecution case is silent about ingredients of money laundering; as such, no evidence is available with the prosecution which could show that the applicant is involved in money laundering; hence, section 3/4 of AML Act, 2010 (Amended in 2020) is also not applicable; that none of the allegations leveled in the FIR or/and interim charge sheet can stand against the applicant, furthermore, in light of documents on record it is evident that there are serious doubts in the prosecution case whereas, it is well settled principle that the courts can extend the benefit of doubt to an accused even at bail stage; that having various bank accounts and conducting transactions in those accounts can in no way constitute any offence when those transactions are declared and matter of record; that the investigation officer's own request under the charge sheet that "he requires times for investigation" suggests that the case of the applicant at the very best is one of further inquiry falling within the ambit of section 21(1)(ii), P.P.C. r/w section 497(2) of the Cr. P.C.; hence, the applicant is entitled to the concession of post arrest bail.

4. Conversely, learned Assistant Attorneys General have opposed this application on the grounds that NBP was established under the provisions of NBP Ordinance, 1949 which is governed by section 11 (General Provisions Pertaining to Management of Banks) of Bank Nationalization Act, 1974 and the President of the Bank is appointed by the Federal Government under the section 11(3) of the said Act; that since NBP is a public entity, all its employees are public servants within the meaning of section 21, P.P.C. and even the post held by the applicant was supposed to keep the documents relating to the pecuniary interest of the Government and he was remunerated for performance of public duty; that

the term 'public servant' also includes the employees of any corporation or other body or organization setup, controlled or administrated under the authority of Federal Government; hence, sections 5(2) PCA-II 1947 and 168, P.P.C. are fully applicable in this case; that the applicant and his wife were maintaining 10 banks accounts and they made huge transactions including transfer of money to foreign bank accounts; that the applicant being a public servant and holding a very high position in NBP malafidely engaged himself in the trade for sale and purchase with M/s. Optimus Capital Management Ltd. which is a registered broker/agent for sale and purchase for NBP; that since the applicant had free access in the confidential data of the NBP, he violated the terms and conditions of his appointment by disclosing the official secrets in order to get wrongful personal gain and thereby he caused losses to NBP/Government exchequer; that the applicant is also facing trial in the Court of Special Judge (Central-I), Karachi, vide FIR No. 23/2012, registered under sections 409, 34, P.P.C. r/w section 5(2) PCA-II, 1947 at P.S. FIA, CBC, Karachi, for obtaining Rs. 17,750,000/- during the year 2003 to 2008 in illegal manner from Staff Welfare Funds of NBP under the garb of performance/achievement awards; that sufficient evidence is available with prosecution to connect the applicant with the commission of alleged offence; hence, he is not entitled to the bail.

5. I have heard learned counsel for the parties and perused the material available on record with their assistance.

6. It appears that the offence under section 168, P.P.C. is bailable under the Schedule-II of Cr. P.C. It is yet to be seen at trial if section 409, P.P.C. attracts to the case of the applicant as *prime facie* no complaint was received from the NBP during his employment or after his retirement for committing criminal breach of trust. It may be observed that in order to attract section 409, P.P.C., as defined in section 405, P.P.C., it must be established that the accused was entrusted with

property or having domain over the property, which he dishonestly misappropriated or converted to his own or disposed of that property in violation of any direction of law prescribing the mode in which such trust was to be discharged. In the instant case, the FIR as well as Interim Charge Sheet is silent regarding entrustment of any property with the applicant to establish prima facie charge of criminal breach of trust against him. The charge of abetment under section 109, P.P.C. is not against the applicant. It has specifically been mentioned in the FIR that the role of Ms. Asiya and other persons, if any, shall be determined during course of investigation. Interim Charge Sheet is also silent regarding commission of abetment by any person. It is also yet to be determined by the trial Court if the applicant has committed criminal misconduct as defined under section 5 (a) to (e) and punishable under section 5(2) of the Prevention of Corruption Act, 1947, as the allegations contained in the FIR and Interim Charge Sheet against the applicant of engaging himself being a public servant in the trade of purchase and sale of shares for himself and his wife for their own benefits in conflict of interest is to be seen in the light of definition of 'public servant' provided by section 21 of P.P.C. and entitlement of the applicant under proviso of Rule 34 of the National Bank of Pakistan (Staff) Service Rules 1980, which imposes no prohibition on NBP's employees for making a bonafide investment of his own funds in stocks, shares and securities as he may wish to buy.

7. It is alleged that the applicant during service in NBP credited huge amounts in aforesaid 05 PKR bank accounts, routed the amounts in other accounts, converted and deposited in his 05 USD bank accounts, purchased UAE Dirhams and US Dollars and accumulated seven assets, which have been declared by him in his tax returns, just for laundering his wealth/money. It may be observed that under section 3 of the AML Act, a person shall be guilty of offence of money laundering, if he (a) acquires, converts, possesses, uses or

transfers property, knowing or having reason to believe that such property is proceeds of crime; (b) conceals or disguises the true nature, origin, location, disposition, movement or ownership of property, knowing or having reason to believe that such property is proceeds of crime; (c) holds or possesses on behalf of any other person any property knowing or having reason to believe that such property is proceeds of crime; or (d) participates in, associates, conspires to commit, attempts to commit, aids, abets, facilitates, or counsels the commission of the acts specified in clauses (a), (b) and (c). In the instant case, it is also yet to be determined at trial if the aforesaid allegations leveled against the applicant constitute any offence as envisaged under clauses (a), (b) and (c) of section 3 of the Act (ibid) as admittedly applicant conducted all transactions through banking channels and all profits, incomes etc., were declared by him in his tax returns. It may also be observed that it is not the matter of mere presumption or assumption but of quality evidence on record to justify the allegations that the alleged assets acquired by the applicant is proceeds of crime. It has been held by the Apex Court in the case of *Manzoor and 4 other v. State* (PLD 1972 SC 81), which has been followed by the Apex Court in the case of *Abdul Aziz Khan Niazi v. The State through Chairman, NAB, Islamabad* (PLD 2003 SC 668), as under:-

*“It is important to remember that bail is not to be withheld as a punishment. There is no legal or moral compulsion to keep people in jail merely on the allegation that they have committed offences punishable with death or transportation, unless reasonable grounds appear to exist to disclose their complicity. The ultimate conviction and incarceration of a guilty person can repair the wrong caused by a mistaken relief of interim bail granted to him, but no satisfactory reparation can be offered to an innocent man for his unjustified incarceration at any stage of the case albeit his acquittal in the long run.”*

8. It further appears that the applicant is confined in judicial custody since 14.09.2021. The I.O. has submitted Interim Charge Sheet against the applicant on 01.10.2021 before the trial Court by stating that “*the investigation of the case has not*



yet been completed due to following reasons; hence, it is requested to accept the application u/s 344, Cr.P.C. for adjournment of the proceedings of the case:-

i) More PWs are required to be examined and their statements are also required to be recorded in the light of relevant record of concerned Bank accounts, trading accounts and their transactions.

ii) Capital/Securities record is awaited from National Bank of Pakistan and NBP Exchange Company Limited Head, Head Office, Karachi still awaited.

iii) Accused Muhammad Nusrat Vohra carried out millions of transactions into bank 08 Bank accounts (PKR/USD) and 08 Trading Accounts which needs time to dig out unearthen facts of the case.

The I.O. has failed to complete his investigation and submit Final Charge Sheet; as such, the applicant is confined in judicial custody without trial for last about six months

9. For the foregoing facts and reasons, the guilt of the applicant requires further enquiry as envisaged under sub-section (2) of Section 497, Cr. P.C. entitling him for the grant of bail. Accordingly, instant application is allowed and the applicant is admitted to post-arrest bail subject to his furnishing solvent surety in the sum of Rs.10,00,000/- (*Rupees Ten Lac only*) and PR bond in like amount to the satisfaction of the trial Court.

10. Needless to mention here that the observations made hereinabove are tentative in nature and would not influence the trial Court while deciding the case of the applicant on merits. In case the applicant misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after giving him notice, in accordance with law.

11. Above are the reasons of my short order dated 15.03.2022.

JUDGE

Athar Zai