

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

**Mr. Justice Muhammad Junaid Ghaffar
Mr. Justice Muhammad Humayon Khan**

C.P No.2814 of 2017

Haroon Rasheed -----Petitioner.
Versus
The Chairman NAB & another-----Respondents.

C.P No.2815 of 2017

Haroon Rasheed -----Petitioner.
Versus
The Chairman NAB & another-----Respondents.

C.P No.2816 of 2017

Haroon Rasheed -----Petitioner.
Versus
The Chairman NAB & another-----Respondents.

C.P No.2817 of 2017

Haroon Rasheed -----Petitioner.
Versus
The Chairman NAB & another-----Respondents.

C.P No.2818 of 2017

Haroon Rasheed -----Petitioner.
Versus
The Chairman NAB & another-----Respondents.

Date of hearing: 25.05.2017 & 26.05.2017.

Date of Order: 26.06.2017

Petitioner in all
Five Petitions: Through Mr. Abdul Qayyum
Abbbasi, Advocate

NAB: Through Mr. Muhammad Altaf,
ADPG NAB.

ORDER

Muhammad Junaid Ghaffar, J. Through all these Petitions, the Petitioner seeks Post Arrest Bail in Reference Nos.40-A, 41-A, 42-A, 43-A/2000 & 11-A/2001. Initially FIRs were registered by the Customs Authorities under Section 32 of the Customs Act, 1969 and thereafter these matters were transferred to the Accountability Court. The precise allegation against the Petitioner is to the effect that he in connivance with others made fraudulent exports and defrauded the Government Exchequer by claiming export rebate on goods, which were never exported.

2. We have heard the learned Counsel for the Petitioner as well as Special Prosecutor NAB and our observations are as under:-

- a. It appears that the Petitioner has been recently arrested in the month of January, 2017 by NAB Authorities after cancellation of his bail by the Trial Court. Before the Trial Court when the matter was pending with Special Judge Customs, the Petitioner remained behind the bar for 15 months and now again he is behind the bar for the last almost five months. The maximum punishment appears to be three years.
- b. It further appears that the Petitioner after grant of bail was regularly attending the trial Court and the entire evidence has been completed; but thereafter it is stated that due to his illness he could not attend the Court and his bail was cancelled.
- c. It appears to be a matter of record that a co-accused in these proceedings was initially convicted by the Accountability Court to suffer sentence of three years but in appeal he has been acquitted through a consolidated Judgment dated 07.01.2013 passed in Cr. Accountability Appeal Nos.1,4,15, 16, 17 & 18 of 2010 by the learned

Division Bench of this Court. The said order was impugned by NAB before the Honourable Supreme Court through Criminal Appeals No.14-K to 18-K of 2013 and vide Judgment dated 18.11.2013, all the said appeals have been dismissed by the Honourable Supreme Court.

- d. It further appears that it was alleged against the Petitioner that he being Proprietor of Charley Enterprises managed fraudulent exports and obtained export rebates, whereas, no actual shipment was made. However, the principal accused Imtiaz Ali Taj also stands acquitted in one of the References by the trial Court vide Judgment dated 26.03.2005.
- e. It has also come in evidence in Suit No.92/1996 filed in respect of dispute with Bank authorities that Forms "E" were not forged, whereas, remittance has also been received in respect of 48 "E" Forms.
- f. Petitioner appears to be of 63 years of age and his medical condition also appears to be very weak, whereas, the only reason which prevailed upon the learned Trial Court to cancel his bail was his abscondence from the Trial Court, which in our view is not justified. Reliance in this regard may be placed on a recent case of ***Muhammad Aslam V The State (2016 SCMR 1520)***, wherein the Honorable Supreme Court has been pleased to observe *that It may be true that a person absconding after an occurrence and declared as a Proclaimed Offender may lose his claim to exercise of discretion in his favour by a court of law on the basis of propriety but at the same time it is equally true that an accused person the case against whom calls for further inquiry is to be admitted to bail as a matter of right. It goes without saying that whenever a question of propriety is confronted with a question of right the latter must prevail. A reference in this respect may be made to the cases of Ibrahim v. Hayat Gul and others (1985 SCMR 382), Muhammad Sadiq v. Sadiq and others (PLD 1985 SC 182), Qamar alias Mitho v. The State and others (PLD 2012 SC 222) and Ehsan Ullah v. The State (2012 SCMR 1137).*

g. It is also an admitted position that the entire evidence has been completed before the Trial Court, whereas, other accused have either been acquitted, or convicted, which has been set aside by the High Court and appeal against such acquittal stands dismissed.

3. In view of hereinabove facts and circumstances of the case, we are of the view that no useful purpose would be served if the petitioner is kept behind bars. Accordingly the Petitioner has made out a case for grant of bail and therefore by means of a short order dated 26.05.2017, we had granted bail to the Petitioner in all five matters on his furnishing surety in the sum of Rs. 500,000/- each and P.R Bond in the like amount. These are the reasons thereof.

Judge

Judge

Ayaz