

**IN THE HIGH COURT OF SINDH AT KARACHI**

*Present : Ahmed Ali M. Shaikh, CJ  
Omar Sial, J*

**Constitution Petition No. D – 6551 of 2018**

Petitioner : Allah Dino Khan Bhayo  
through Mr. Sarfraz Ali Metlo, Advocate

Respondents : Chairman NAB & Others  
through Mr. Kelash Vaswani, Special Prosecutor  
NAB a/w Irfan Ali, I.O.

Date of hearing: 30.1.2019

Date of announcement: 19.2.2019

**ORDER**

**Omar Sial, J.:** The petitioner Allah Dino Khan Bhayo is an accused in Reference No. 30 of 2018. Apart from the petitioner there are two other accused in the same Reference, namely, Muhammad Afzal Bhayo and Maqsood Ahmed. Maqsood was Allah Dino's driver whereas Afzal Bhayo was Allah Dino's friend and remained his guest when he visited Shikarpur from Rahim Yar Khan. The broad allegation against the petitioner is that he having political influence in Shikarpur, used his influence to award a number of contracts to certain contractors and in exchange of the favour received kickbacks/commissions from these contractors. The money given by the contractors found its way into the account of Allah Dino through three different modes: (i) by credit into the account of his driver Maqsood Ahmed (ii) by deposit into his account via Afzal Bhayo (iii) by direct deposit into his account. It appears from the Final Investigation Report submitted by NAB that the amounts received were as follows:

- (a) Rs. 18,032,910 into the account of Maqsood Ahmed.
- (b) Rs. 2,100,000 from Afzal Bhayo.
- (c) Rs. 4,046,000 directly into his account from various contractors.

2. NAB investigations have further revealed that the aforementioned transactions have two things in common. Firstly, that all the money deposited was from contractors in Shikarpur and representatives of the Works & Services Department, Shikarpur. Secondly, that all the transactions were made in the period 2013 to 2015 when Allah Dino was the District President of the ruling party. It has also been revealed that some of the persons to whom contracts were awarded were personal employees of Allah Dino

whereas the names of other contractors were used by Afzal Bhayo to get contracts. Details of such contractors are given at page 8 of the Final Investigation Report.

3. During NAB investigations, Afzal Bhayo justified the transactions made by him on the grounds that he sold cars to contractors in Shikarpur and the money received was on account of such sale. He however could not provide any details of the vehicles allegedly sold. Maqsood Ahmed categorically told NAB that the money received in his account was Allah Dino's. Allah Dino in his statement recorded that the money deposited in Maqsood's account was from his agricultural income but he remained vague in his explanation for the money received from contractors and Afzal Bhayo. Instead, he claimed that he was unaware of that millions had been taken by Afzal Bhayo from contractors.

4. We have heard the learned counsel for the petitioner as well as the learned Special Prosecutor, NAB and have also examined the relevant record with their assistance. Our observations are as follows.

5. The learned counsel for the petitioner has focused his arguments on the amounts that were credited to the account of Maqsood Ahmed. He admitted that the money was used for the benefit of Allah Dino and his family but justified it on the ground that the money was legitimately earned from the agriculture business of Allah Dino. The grounds taken in the petition filed by the learned counsel (which are not being reproduced for the sake of brevity as they form part of the record) are also vague and do not prima facie justify the transactions made (apart from the ones made in Maqsood's account). No justification for the Rs. 4,046,000 deposited and documented into the account of Allah Dino by various contractors has been given nor has any justification been given for the deposits (which are also documented) made by Afzal Bhayo into the account of Allah Dino. Contrary to the evidence available with NAB, Allah Dino told NAB that no money was transferred into his account by Afzal.

6. Prosecution witness Junaid Ahmed in his statement under section 161 Cr.P.C. has recorded that he opened a firm in the name of Khan & Co and that several contracts were awarded to this company on the influence of Afzal Bhayo. The money transferred from Khan & Co. to Afzal Bhayo was the proceeds of these contracts. He further stated that the money was also transferred from Khan & Co to the accounts of Allah Dino and Maqsood Ahmed on the directions of Afzal Bhayo. A similar statement has been recorded by prosecution witness Rab Dino. Learned counsel for the petitioner has argued that the statements given by these two witnesses should not be taken into

consideration as they were simply trying to pass the buck and that they in spite of admitting that they received money against contracts, were not made accused in the proceedings. Be that as it may, it has not been denied that the requisite transfers were made into, inter alia, Allah Dino's account. No justification has been given.

7. On a tentative assessment it appears that Maqsood Ahmed opened an account on the instructions of Allah Dino. In fact it was the petitioner who introduced him to the branch. Money credited into this account was from persons who had received contracts from in Shikarpur. Allah Dino was the admitted beneficiary of these amounts. Prima facie it also appears that persons who were awarded contracts have made deposits into the accounts of Allah Dino. No explanation apart from a simple blanket denial has been given by Allah Dino as to why these monies were deposited into his account. There also appears to be sufficient evidence to prima facie establish that Afzal Bhayo has been involved in this scam and that he too has transferred money from contractors into the account of Allah Dino. We are not impressed with the argument that Allah Dino was oblivious to the transactions being made as money from his account has been withdrawn through cheques. He has not claimed that his cheque book was also in the use of somebody else. There also appears to be documentary evidence establishing the transfers which tentatively reflects the petitioner's involvement in the case in hand.

8. In view of the above, the petition seeking post-arrest bail stands dismissed.

JUDGE

CHIEF JUSTICE