

# IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Crl. Bail Application No. D- 79 of 2022

Present:

**Zafar Ahmed Rajput, J.**

**Irshad Ali Shah, J.**

**For the Applicant :** M/s Nisar Ahmed Bhanbhro and Sheeaz Fazal, Advocates.

**For the State :** M/s Mujeeb-ur-Rehman Soomro and Bahawaluddin Shaikh, Special Prosecutors for NAB along with Fazal-ur-Rehman Narejo, I.O., NAB.

**For the Federation :** Mr. Karim Bux Janwri, Asstt. Attorney General.

**Date(s) of Hearing :** 18-01-2023

**Date of Order :** 18-01-2023

## ORDER

**Zafar Ahmed Rajput, J. -** Having been rejected his earlier application for grant of bail in Reference No.07 of 2020 ("**Reference**") by the Accountability Court, Sukkur, vide order dated 20.04.2022, applicant Iqbal Ahmed s/o Sarfraz Ahmed seeks same relief from this Court through instant Crl. Bail Application.

2. Learned counsel for the applicant states that the applicant is innocent and has falsely been implicated in the Reference and he has no connection with the alleged offence; that the applicant wile posted as Executive Engineer, Machinery and Maintenance Division, Khairpur @ Shikarpur performed his duties in accordance with law and he did not render any undue benefit to any person; that the applicant was not involved in the tendering process, which in fact, was done much prior to his posting; that the applicant made payments to the contractors against the actual work done at the site; that the applicant was under arrest in another case when the Reference was filed; that no material is

available with the prosecution forming the reasonable grounds affecting his arrest; that the technical assessment in the matter was also made after the arrest of the applicant; that; that the applicant is confined in judicial custody since his arrest made in December, 2019 and the trial has not been concluded and he is facing hardships; that co-accused Allah Ditto has already been admitted to post-arrest bail by this Court on the ground of hardships vide order, dated 26.04.2022, passed in Crl.B.A.No.D-247 of 2021; hence, he is also entitled for the concession of post-arrest bail as per rule of consistency.

3. On the other hand, learned Special Prosecutor for NAB has vehemently opposed this application on the ground that the applicant is involved in issuance of work order illegally without inviting tenders to an unregistered firm of co-accused Abdul Razak and Muhammad Ali on fake and fabricated documents; that the applicant as well as other six co-accused persons also allowed excessive payments to said co-accused illegally by recording fraudulent measurement in the measurement book, which resulted in causing loss of Rs. 14,43,62,643/- to the national exchequer.

4. Heard learned counsel for the applicant, leaned Special Prosecutor for NAB and perused the material available on record.

5. It appears that the applicant was arrested in December, 2019 and is confined in judicial custody for about more than three years and trial has not yet been concluded. It further appears that the Reference was filed against nine accused persons including the applicant; whereas, charge was framed against the accused on 20.08.2020; thereafter, five witnesses were examined by the trial Court. Subsequently, co-accused Muhammad Ali joined the proceedings after obtaining bail and learned trial Court fixed the matter for framing of the

amended charge. It is an admitted position that the prosecution will again examine its witnesses, such exercise will take further time. The delay in trial cannot be attributed to the applicant, and such long delay constitutes “an inordinate and unconscionable delay”, as held in the case of Talat Ishaq v. NAB (PLD 2019 SC 112). Moreover, the applicant is also entitled for the grant of bail on the rule of consistency, as co-accused Allah Ditto has already been admitted to post-arrest bail by this Court on the same ground.

6. For the foregoing facts and circumstances of the case, the applicant was admitted to post arrest bail subject to his furnishing solvent surety in the sum of **Rs.20,00,000/- (Twenty Lac)** with P.R bond in the like amount to the satisfaction of the trial Court, vide short order of even date and above are the reasons for the same.

7. Needless to mention here that in case the applicant misuses the concession of bail in any manner, the trial Court shall be at liberty to cancel the same after serving notice upon the applicant as per law.

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