

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Criminal Bail Application No. D - 07 of 2023

Present:

Zafar Ahmed Rajput, J.

Irshad Ali Shah, J.

For the Applicant : Mr. Waseem Ahmed Sundrani,
Advocate.

For the State : M/s Mujeeb-ur-Rehman Soomro and
Bahawaluddin Shaikh, Special Prosecutors
for NAB.

For the Federation : Mr. Kareem Bux Janwri, Assistant
Attorney General.

Date of Hearing : 22.02.2023
Date of Order : 22.02.2023

ORDER

Zafar Ahmed Rajput, J. - Having been rejected his earlier Criminal Bail Application No.45 of 2021 in Reference No.21 of 2020 ("**Reference**") by the Accountability Court, Sukkur, vide order dated 24.05.2022, applicant Muhammad Nawaz S/o Mehrab Khan Arbani seeks same relief from this Court through instant Criminal Bail Application.

2. Learned Counsel for the applicant states that the applicant is innocent and has falsely been implicated in the Reference though he has no connection with the alleged offence; that the applicant while posted as Sub-Engineer, Provincial Highways, Sub-Division Jacobabad 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 embezzlement of funds; that the applicant is neither authorized to issue the payments nor empowered to sign the measurement books; that the applicant is confined in judicial custody

since his arrest made in February, 2020 and the trial has not been concluded and he is facing hardships; that the co-accused Zafarullah Buriro, Manzoor Ahmed Panhyar and Sikandar Ali Soomro have already been admitted to bail; hence, he is also entitled for the concession of post-arrest bail.

3. On the other hand, learned Special Prosecutor for NAB vehemently opposes this application on the ground that the applicant has intentionally, unlawfully and deliberately misused his authority and rendered undue benefits to contractors to withdraw amounts/government funds for which they were not entitled; that the applicant caused loss to the Government exchequer and his individual liability is Rs.31,36,095/-.

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 February, 2020 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 eleven accused persons including the applicant; whereas, charge was framed against the accused on 02.01.2021; thereafter, nine witnesses were examined by the trial Court. Subsequently, some of the co-accused have 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 and 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 some of the co-accused have already been admitted to bail on the same ground.

6. For the foregoing facts and circumstances of the case, 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)** with P.R. bond in the like amount to the satisfaction of the trial Court.

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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Abdul Basit