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IN THE HIGH COURT OF SINDH,
KARACHI

Before:
Mr. Justice Irfan Saadat Khan, J.
Mr. Justice Mohammed Karim Khan Agha, J.

C.P.No.D-3969/2014
Ali Dino Gahoti

Vs.

Director General NAB & others

C.P. No.D-3929/2014
Muhammad Aslam Lund

Vs.

Chairman NAB & others

C.P.No.D-4189/2014
Gulsher Ahmed Solangi

Vs.

Director General NAB & another.

C.P.No.D-3466/2014
Muhammad Kashif Ayaz & another

Vs.

NAB & another.

Date of hearing: 30-08-2016 and 01-09-2016

Date of order: 09-09-2016

Petitioners: Through Mr. Yousuf Moulvi, Advocate,
in C.P. No.D-3969 of 2014,
Mr. Muhammad Jamil, Advocate in
C.P. No.D-3929 of 2014. Mr. Mirza
Sarfaraz Ahmed, Advocate in
C.P.No.D-4189 of 2014 and
Mr. Shoukat Hayat, Advocate, in C.P.
No.D-3466 of 2014.

Respondents: Through Mr. Muhammad Zubair Malik,
Special Prosecutor NAB.

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ORDER

Mohammed Karim Khan Agha, J:- By this common order, we intend to dispose of the above petitions filed by the petitioners for confirmation of their ad interim pre arrest bail who are accused of being involved in corruption and corrupt practices by the National Accountability Bureau (NAB) under the National Accountability Ordinance 1999 (NAO) vide Reference No.10 of 2014 State Verses Ali Dino Gahoti and others.

2. Brief facts of the NAB case are that a complaint was received by Anti-Corruption Establishment Sukkur against accused No.4 S.M. Ayaz Rana, Deputy District Officer (Revenue) Ubaro for demanding illegal gratification for the payment of land compensation in Rainee Canal Project. As some officials of Water and Power Development Authority (WAPDA) were also involved and being Federal Government Employees, the case was forwarded to Federal Investigation Agency (FIA) who transferred the same to National Accountability Bureau Sindh for want of jurisdiction.

3. As per investigation report the Rainee Canal Project was launched by WAPDA with the order of President of Pakistan in the year 2002. The total land acquired for Rainee Canal Project is 6002 acres out of which 3180 acres were acquired in Deh Satiyaro and an amount of Rs.1.028 Billion was paid as Land Compensation.

4. It appears from the investigation that Land Grant Policy, 1989 was approved by Government of Sindh for grant of land to local Hari's for cultivation purposes. In 1991 the then Chief Minister Sindh granted land, in relaxation of Land Grant Policy 1989 to the people in District Ghotki specially in Deh Satiyaro, which was subsequently cancelled by the Government of Sindh vide Land Utilization Department Order dated 29.05.1994. In the year 1997 the Government of Sindh,

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Board of Revenue (BOR) vide its order dated 18.02.1997 withdrew the said cancellation order. In 1999, the new government again cancelled grants and orders were communicated vide Land Utilization Department letter dated 17.3.1999 addressed to the concerned quarters. Finally in the year 2000, the then Chief Executive directed the Government of Sindh to empower the then Commissioner (later on changed as EDO Revenue) to verify each and every cancelled grant and maintain the same under the provisions of Land Grant Policy, 1989. Earlier known as Colonization Officer / District Officer, Revenue of the concerned District was responsible to implement the Land Grant Policy in the Districts.

5. Report further shows that as per record of Land Utilization Department on March 09, 2002 accused No.1 EDO (Rev) Ghotki informed Secretary Land Utilization that as per direction of President of Pakistan Rainee Canal Project will be started to irrigate the land of non-perennial area of Sindh Province located at the eastern side of Ghotki District. The then Secretary Irrigation & Power, requested to Senior Member Board of Revenue and Member Land Utilization that:-

No estate land in mentioned Talukas may be allowed to be sold/leased out.

Non confirmation of temporary leases.

Record should be sealed and remain in personal possession so as to avoid fictitious transaction / pre-dating of record

6. On 05.07.2002 Secretary Land Utilization Board of Revenue Sindh Hyderabad directed the then DCO EDO (Rev) District Ghotki Mirpur Mathelo to take necessary action accordingly.

7. Investigation further reveals that as per record, land granted during Kharif season in 1991-92, which was earlier cancelled was illegally maintained and land granted under

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normal katcheries was illegally revised by the Revenue Officials of District Ghotki in clear violation of S.29 (2) of the statement of the conditions of the land grant policy 1989 for grant of Barrage land to haris (Peasants).

8. The then EDO (Rev), accused No.1 without following the terms and conditions maintained earlier cancelled grants and directed Estate Office to complete defaulted installments on Form-A for further issuance of T.O. Forms. He in the capacity of DO Revenue reported to EDO Revenue regarding the status of "Khatedars" whose T.O. Forms were issued but not entered in Record of Rights and requested EDO to seek guidance from Board of Revenue to solve the issue. Subsequently Member Land Utilization vide his letter dated 12.12.2003 clearly directed EDO Revenue to act in the light of Section 29(1) of the Land Grant Policy and resume the Land which was communicated to him. As per Land Grant Policy it was the responsibility of accused No.1 Ali Dino Gohati to resume the land and not to restore the grant of the land coming in Rainee Canal Project but he failed to exercise his authority and did not implement the order of Member Land Utilization.Chief Project Director Guddu WAPDA vide his letter dated 25.9.2004 also requested EDO Revenue to impose ban as per direction of President of Pakistan. Member Land Utilization also directed him to impose ban in Talukas of District Ghotki from where Rainee Canal was passing. However despite directions process of disposal of Estate Land remained continuing and accused No.1 in the capacity of EDO failed to exercise his authority and did not take action against his DO Revenue accused Gulsher Solangi (accused No.3) and Muhammad Hussain Mughal, Mukhtiarkar Estate (accused No.5) which resulted in illegal conversion of Estate Land into private land and caused losses to the National Exchequer. Accused No.1 was fully aware of Section 29(1) of Land Grant Policy and imposition of ban on transfer of Estate Land. He also illegally restored the defaulted land grants.

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9. Investigation report reveals that accused No.2 Muhammad Aslam Lund in the capacity of DO Revenue initiated T.O. Forms despite having knowledge of Section 29(1) of Land Grant Policy 1989 and directions of Member Land Utilization Board of Revenue to impose ban on issuance of T.O. Forms and misused his authority which resulted in heavy losses to the National Exchequer.

10. The investigation report also reveals that accused No.3 Gulsher Ahmed Solangi, DDO (Revenue) / Land Acquisition Officer Ubaro had authority under a Notification and Land Acquisition Act 1894 for passing awards, preparation of payment vouchers for Land Compensation and damages for the affectees and in doing so he was exclusively responsible for this act. He not only revised land grants in violation of Section 29(1) of Land Grant Policy, directions of Board of Revenue dated 12.12.2003 and imposition of ban on transfer of Estate Land into private land vide letter dated 2.10.2004 but also countersigned the T.O. Forms. Those T.O. Forms were forwarded to Mukhtiarkar for entry in Record of Rights which formed basis for compensation of this land which was acquired for Rainee Canal Project. He had also made illegal payment of Rs. 84,575/- against self grown Kikar trees.

11. Investigation report further reveals that accused No.8 Kashif Ayaz Rana and accused No.9 Asif Ayaz Rana both are sons of accused No.4 Ayaz Ahmed Rana. That their bank accounts reflect heavy transactions of Rs. 42.3 million and properties of worth of Rs. 6.9 million for which they had no apparent genuine and lawful sources of income and there is sufficient evidence available on record that these transactions took place during the appointment of their father in Rainee Canal Project.

12. It has been found from the investigation that the accused No.1 to 7 misused their authority, failed to exercise the powers, illegally restored old land grants, illegally revised defaulted grants into allotments, made illegal payments and

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caused loss to the Government Exchequer to the tune of Rs. 493,654,680/- (493.654 million) and the unauthorized payment of trees (Kikar / Lawa) made by the accused Gulsher Solangi and Ayaz Ahmed Rana comes to Rs. 1,38,59,420/- (13.859 million). The total loss caused to the National Exchequer comes to Rs. 507,514,100/- (507.514 million). An amount of Rs. 14,376,898/- (14.376 million) has been recovered from the beneficiaries namely Fayaz Ahmed and Iqbal Ahmed through Plea Bargain. Hence the total loss comes to the tune of Rs. 493.137,203/- (493.137 million). The accused No.8 and 9 are the beneficiaries of the illegal gain received by the accused No.4 to the tune of more than Rs.42.35 million and the accused No.10 to 12 are the beneficiaries of the land compensation. Thus the accused No.1 to 12 committed the offence of corruption and corrupt practices as provided in Section 9 (a)(vi) of National Accountability Ordinance, 1999 and schedule thereto punishable under section 10 of the said Ordinance.

13. Learned counsel for Ali Dino Gohati (petitioner No.1) submitted that the petitioner was completely innocent and that he had not committed any acts of corruption. He followed the provisions of the land grant policy 1989 and forwarded on any necessary directives to officers under him for implementation and as such he could not be held responsible if any officer under him had failed to implement his instructions not to transfer any state land to private persons or issued any TO or failed to remove any entry in the record of rights. He did not sign any TO's and he was not a beneficiary. He performed his duties strictly in accordance with the law and did not take any action against any subordinates for any wrong doing in disobeying the aforementioned instructions since he received no complaint against them.

14. With regard to S.29(1) of the land grant policy he submitted that he had complied with it and in any event it was not for this court to interpret S.29(1) which in his view

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had to be read with S.18 and in his submission it was for the trial court to make such interpretation.

15. He further submitted that this was a case of further inquiry, that most of the evidence was documentary and thus he could not interfere with it, that no witness had deposed against him and that bail could not be refused as a punishment. In support of his contentions he placed reliance on **Hassan Jameel Ansari v. NAB** (2012 YLR 2809), **Muhammad Saeed Mehdi v. State** (2002 SCMR 282), **Muhammad Nadeem Anwar v. NAB** (PLD 2008 S.C. 645), **Mohammad Azam Brohi & another v. The State** (2016 P.Cr.L.J. 1417 (Sindh) and **Ali Ahmed v. NAB Sindh & another** (2016 P.Cr.L.J. 594 (Sindh). Learned counsel also filed statement along with certain documents.

16. Learned Counsel for Muhammad Aslam Lund (petitioner No.2), submitted that the petitioner was completely innocent and that he had not committed any acts of corruption. That the instant case concerned the acquisition of land for the Raine canal which he had nothing to do with as he was posted as District Officer (Revenue and Estate) in April 2008 by which time the land acquisition process had been completed bearing in mind that the Raine canal project was launched in 2003 before he took up his post. According to him the project had during that period been under the Supervision of Mr Mr.Gulsher Ahmed Solanagi (petitioner No.3). So far as the letter from the President was concerned this did not impose any ban in connection with land related to Raine canal. He was not a beneficiary and there was no mens rea on his part.

17. He admitted signing TO forms however such forms did not relate to the Raine canal project. Furthermore no specific role has been assigned to him in the reference and there is not a single piece of evidence against him and he should have been included as a witness in this case as opposed to an accused. He further submitted that accused No.4 and 5 in the

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in the reference S.M.Ayaz Rana and Muhammed Hussain Mughal had already had their his pre arrest bail confirmed by this Court and as such based on the rule of consistency he was also entitled to have his pre arrest bail confirmed. He further submitted that it was a case of further inquiry.

18. In support of his contentions he placed reliance on **Sameen Jan Naib Tehsildar & another v. The State & another** (PLD 2011 SC 509), **Fayyaz Ahmed v. The State & other** (2014 SCMR 1628), **Hosh Muhammad v. Chairman NAB, Islamabad** (2007 P Cr.L.J. 1260-Karach), **Abdul Aziz Qazi v. NAB through Chairman, Islamabad & 2 others** (2012 MLD 777), **Hassan Jameel Ansari v. NAB & another** (2012 YLR 2809), **Abdul Qadir v. Federation of Pakistan through Secretary, Ministry of Interior, Government of Pakistan, Islamabad & 5 others** (2002 SCMR 1478), **Saeed Ahmed v. The State** (1996 SCMR 1132), **Hussain Haqani v. The State** (2000 P Cr. LJ 161- Karachi), **The State & others v. I. Idress Ghauri & others** (2008 SCMR 1118), **Hakim Ali Zardari v. The State & another** (PLD 1998 SC 01), **Abid Ali @ Ali v. The State** (2011 SCMR 161) and **Nazar Muhammad & 2 others v. The State** (2012 P Cr. LJ 430). Learned counsel also filed certain other material alongwith his written submissions.

19. Learned Counsel for Gulsher Ahmed Solangi (petitioner No.3) submitted that the petitioner was completely innocent and that he had not committed any acts of corruption. He submitted that accused No.4 and accused No.7 (Abdul Sattar Kalwar) had been granted pre arrest bail and since his case was on a better footing based on the rule of consistency he was also entitled to have his pre arrest bail confirmed. Furthermore, he did not allot any land and had no information about any ban which his superiors failed to pass on to him. He was not a beneficiary, no evidence had been brought on record against him and hence he was entitled to pre arrest bail.

20. Learned Counsel for Muhammed Kashif Ayaz (Petitioner No.4 and Muhammad Asif Ayaz (petitioner No.5) submitted that both the petitioners were completely innocent and had not committed any acts of corruption. They were beneficiaries and since one of the main accused 4 (S.M. Ayaz Rana) had already had his pre arrest bail confirmed both the petitioners were also entitled to have their pre arrest bail confirmed based on the rule of consistency especially as their role was much less than accused No.4.

21. According to learned counsel in respect of accused No.4 there was not a single piece of evidence that he had misused his authority or evidence of any other kind that he had committed the offense for which he had been charged and this was reflected in his bail granting order whereby the NAB had conceded this position. This being the case it was impossible for the petitioners 4 and 5 to be beneficiaries in respect of this case. According to him they had not been charged with having assets beyond their known sources of income and even otherwise they were aged 21 and 26 respectively and had made whatever money they had through an automobile and housing business on which they had paid tax.

22. In support of his submissions he placed reliance on the cases of **Ahmed Riaz Sheikh v. The State & others** (PLD 2009 SC 202), **Muhammad Azam v. The State** (2008 SCMR 249), **Muhammad Daud & another v. The State & others** (2008 SCMR 173), **Sikandar A. Karim v. The State** (1995 SCMR 387), **Mrs. Riaz Qayyum v. The State & another** (2004 SCMR 1889), **Saeedullah Soomro v. The State** (2011 YLR 144-Karachi).

23. Learned Special Prosecutor NAB vehemently opposed the submissions made by all the petitioners. He submitted that there is sufficient material available on record against all the petitioners through both S.161 Cr.PC statements and documents to prove the guilt of the petitioners beyond a

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reasonable doubt in respect of the offenses charged and as such none of the petitioners were entitled to have their bail confirmed.

24. We have considered the arguments of learned counsel, perused the record, relevant law and case law cited by them at the bar.

25. At the outset we would like to make it clear that as per settled law we have only made a tentative assessment of the material before us and that this order shall not effect the trial proceedings which shall be decided by the learned Judge on merits based on the evidence before him. All parties have filed a copious number of documents before us, however, we would re iterate that we are not a trial court and as already mentioned only a tentative assessment of evidence is permissible at the bail stage and as such we have only briefly skimmed through those documents and do not intend to comment on each and every one

26. We shall first deal with the case of petitioners 1, 2 and 3. In our view the rule of consistency is not applicable to any of the petitioners. This is because in the case of accused No.4 S.M.Ayaz Rana at the time of the confirmation of his ad interim pre arrest bail way back in 2008 the NAB in effect did not strongly oppose the grant of bail to him since at that time they did not have sufficient material on record against him. Now in 2016 (8 years later) NAB contends that there is sufficient material on record against him as well as against petitioners 1, 2 and 3. Likewise in the cases of accused No.5 and 7 Abdul Sattar Kalwar and Muhammed Hussain Mughal respectively we find that their positions and roles were much lesser than the petitioners 1,2 and 3 and as such their case is also distinguishable. Even otherwise Accused No.5 and No.7 were granted post arrest bail which requirements are different from pre arrest bail. Furthermore, in all 3 cases referred to above no witness had been examined at the time of the bail granting order whereas now a number of witnesses have been

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examined. As observed in other judgments the rule of consistency is not to be followed blindly and the roles attributed to each applicant and the facts and circumstances of each case are to be considered separately.

27. In the case of petitioners 1, 2 and 3 in our view none of them have been able to make out a case of malafide against the NAB which is one of the requirements of pre arrest bail as set out in the case of **Rana Muhammed Arshad V Muhammed Rafiq** (PLD 2009 SC 427). NAB, it appears, has simply carried out its usual process of inquiry, investigation and analysis of evidence on a fair and reasonable basis in following up the complaint it received in respect of corruption in the Rainee canal project albeit at a less than satisfactory pace

28. Indeed as was recently held by this court in the case of **Ali Ahmed V NAB** (2016 P.Cr.LJ 594) pre arrest bail is not to be used as a substitute for post arrest bail in the following terms at P.598:

“Prima facie, there is sufficient material/documentary evidence against accused Ali Ahmed to connect him in the commission of offence. **Apart from that, grant of bail before arrest is an extra-ordinary relief to be granted only in extra-ordinary situation to protect innocent persons against victimization through abuse of law for ulterior motives. Pre-arrest bail is not to be used as a substitute or as an alternative for post-arrest bail** as held by Honourable Supreme Court of Pakistan in the case of Rana Muhammad Arshad v. Muhammad Rafiq (PLD 2009 SC 427). No mala fide or ulterior motive on the part of NAB is shown by the petitioner. There appear reasonable grounds for believing that petitioner Ali Ahmed has committed the alleged offence. Therefore, constitution petition filed by petitioner Ali Ahmed for pre-arrest bail is dismissed.” (bold added)

29. With regard to petitioner No.1 he has been assigned a specific role in the reference as is largely set out in para 8 of this order. He held the senior position of EDO Revenue. He

was well aware of S.29 (1) of the Sindh Land grants policy however he failed to implement it. He has attempted to hide behind a letter dated 12-12-2003 which he received from the BOR which directed him to take action under the aforesaid S.29(1) and resume the land which he alleges he passed on to petitioners 2 and 3 to give effect to. Petitioner No.3 claims not to have received this letter. Even if petitioner No.3 had received the letter in our view this would not relieve petitioner No.1 of his responsibility to ensure that the orders were complied with. In our view there is sufficient material on record to show that petitioner No.1 failed to exercise his authority by not even checking to see that his orders were being implemented which was required by a man of his experience and seniority. For a senior Government official simply forwarding important orders without ensuring that they were complied with or reporting the failure of the concerned officials to implement the same to his higher authority which lead to a colossal loss to the Exchequer, as in this case, would not relieve the senior officer of potential criminal culpability. The fact that this illegality was being committed has been amply demonstrated by the fact that 2 of the accused beneficiaries have already entered into plea bargains with the NAB and have as such admitted their guilt. Thus, in our view there is sufficient material on record to show that there are reasonable grounds to connect petitioner No.1 to the commission of the offense. He has also not been able to satisfy us that the grounds which form a pre condition for the grant of pre arrest bail are applicable to his case. As such the ad interim pre arrest bail granted to petitioner No.1 by order dated 25-07-2014 is hereby recalled and his petition stands dismissed.

30. With regard to petitioner No.2 he has been assigned a specific role in the reference as is largely set out in para 9 of this order. He held the important senior position of DO Revenue and Estate. He was well aware of S.29 (1) of the Sindh Land grants policy however he failed to implement it. He has also not denied receiving a copy of the letter dated

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12-12-2003 from the BOR which was forwarded to him by the EDO which directed him to take action under the aforesaid S.29(1) and resume the land. We are of the view that he was in full knowledge of the orders to resume the land and deliberately failed to do so. NAB has placed on record 10 TO's in respect of Rainee canal which bear his signature. Although he claims that these TO's were forged and fabricated on examination with his signature on his valakanama filed before this court his signature on the 10 TO's appeared to be the same. We find his assertion that petitioner No.3 was liable as opposed to himself untenable in the light of his signatures on the TO forms. His misuse of his authority therefore caused colossal loss to the exchequer and illegally favored the beneficiaries. As mentioned earlier 2 beneficiaries have already entered into PB's with NAB thereby admitting their guilt in this case. Thus, in our view there is sufficient material on record to show that there are reasonable grounds to connect petitioner No.2 to the commission of the offense. He has also not been able to satisfy us that the grounds which form a pre condition for the grant of pre arrest bail are applicable to his case. As such the ad interim pre arrest bail granted to petitioner No.2 by order dated 23-07-2014 is hereby recalled and his petition stands dismissed.

31. With regard to petitioner No.3 his case in our view is reasonably similar to petitioner No.2. He has been assigned a specific role in the reference as is largely set out in para 10 of this order. He held the important position of DDO Revenue and Land Acquisition Officer. He was well aware of S.29 (1) of the Sindh Land grants policy however he failed to implement it. Although he has denied receiving a copy of the letter dated 12-12-2003 from BOR which was forwarded to him by the EDO which directed him to take action under the aforesaid S.29(1) and resume the land we are of the view that he was in full knowledge of the orders to resume the land on account of his position and deliberately failed to do so. NAB has placed on record over 200 TO's in respect of Rainee canal which bear his signature and which have not been denied by him.

Interestingly during oral arguments his learned counsel admitted that there were illegalities in complying with S.29(1) of the Sindh Land Grants Policy 1989 but petitioner No.3 was not a part of it. His signatures on the TO directly lead to illegal payments of land compensation by the Mukthiarkar to beneficiaries. He also failed to resume the land as per directions which he ignored. In addition the S.161Cr.PC statement of Shabbir Ahmed Kalhoro fully implicates him. His misuse of his authority therefore caused colossal loss to the exchequer and illegally favored the beneficiaries. As mentioned earlier 2 beneficiaries have already entered into PB's with NAB thereby admitting their guilt in this case. Thus, in our view there is sufficient material on record to show that there are reasonable grounds to connect petitioner No.3 to the commission of the offense. He has also not been able to satisfy us that the grounds which form a pre condition for the grant of pre arrest bail are applicable to his case. As such the ad interim pre arrest bail granted to petitioner No.3 by order dated 15-08-2014 is hereby recalled and his petition stands dismissed.

32. The case of petitioners No.4 and 5 is on a different footing as they are allegedly the beneficiaries of the scam. According to the NAB their father Accused No.4 who was DDO Revenue and Land Acquisition officer was fully involved in illegal actions in connection with the Rainee canal project by misusing his authority like petitioners 1, 2 and 3. That the father then transferred ill gotten money arising out of his misuse of authority in connection with the Rainy canal project to his sons petitioners 4 and 5 to retain as his benamidars in their bank accounts and through the purchase of property and vehicles. Accused No.4 had his ad interim pre arrest bail confirmed on 21-05-2008 by this Court. As per settled law it appears to be the general rule that if the main accused is granted bail then his beneficiaries should also be entitled to the same relief.

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33. In our view with utmost respect and deference we are of the view that based on the particular facts and circumstances of this case, which distinguishes this case from the general rule, the beneficiaries should not be granted pre arrest bail. This is because there are a number of distinguishing factors which are present in this case and which were not present in other such cases where the beneficiaries were granted bail when the main accused was granted bail based mainly on the rule of consistency

34. Firstly, when accused No.4's pre arrest bail was confirmed the NAB specifically conceded that it had no evidence against the petitioner i.e. accused No.4 which automatically made it a case of further inquiry. This however was around 8 years ago when no reference had been filed. The position is different today i.e 2016. A reference was filed on 3-7-2014 which fully implicated the Accused No.4. During this bail application the NAB has informed us that there is now on record material which connects Accused No.4 to the offense. In our view having heard the arguments of the petitioners 1, 2 and 3 we are of the view that this is not a case of further inquiry any more. In fact the trial is in full swing before the Accountability Court. Should therefore the petitioners' be allowed bail simply because NAB through its own lack of diligence and inefficiency failed to move an application for the cancellation of Accused No.4's bail when there appears to be overwhelming material against the beneficiaries? Should the rule of consistency be blindly applied to such a case? We do not think so.

35. Beneficiaries especially as benamidars perform a vital role in enabling corruption. They are used as a vehicle to hide ill gotten wealth. If this vehicle was eliminated it would be much harder for the corrupt to hide their ill gotten wealth and make it more likely that they will be exposed or even refrain from indulging in such practices on such a large scale. Of course each case of a benamidar must be based on its own particular facts and circumstances.

36. In this case Accused No.4 was land Acquisition officer between 2004 and 2007, which is the period, when he was accused of taking bribes and misusing his authority in the grant of land compensation in the Rainee canal project. It was also during this period that the petitioners 4 and 5 started their business which saw large unexplained sums of money being paid into the accounts of the beneficiaries who at that time were only about 21 and 26 years of age respectively. According to petitioner No.4 at that time when he opened his account in UBL Sukkur on 09-07-2004 his occupation was not stated and when he opened his account in UBL Karachi on 05-05-2005 his occupation was stated to be a student whilst petitioner No.5 described himself as self employed when he opened his bank account at Saudi Paki Commercial Bank in 10-05-2006. According to them they had received this money from their running of a car sale and purchase business. However no receipts were available for this business. When the beneficiaries were asked by this court what was their source of income for their tax returns they had no answer. In short they could not explain at all how they had generated these vast amounts of money laying in their bank accounts. Likewise the source of funds for the property and vehicles which they had acquired. If any thing these large unexplained amounts seem to be either seed money for their potential business or the business was set up to camouflage the illegal payments. It is true that they have not been charged with acquiring assets beyond their known sources of income under the NAO, but even so they have been charged as beneficiaries on account of their father's misuse of authority during the time in which he held public office in connection with the Rainee canal project and they ought to have been able to adequately account for funds in their own bank accounts which any law abiding citizen should be able to do. The Courts in our view simply cannot turn a blind eye to such glaring anomalies.

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37. In our view based on the facts and circumstances of this case, the material before us and the answers of the beneficiaries to our questions the only reasonable inference to be drawn is that they are beneficiaries of the ill gotten money of their father and that they were in full knowledge of this. It simply does not appeal to reason that when your father is a Government servant accused of corruption and that during that period you, as his sons, are receiving massive chunks of money in your bank account and you cannot explain where it is coming from, you do not know that it is from ill gotten gains. Apart from being a beneficiary the petitioners 4 and 5 could even be deemed to be accomplices or aiders and abettors to the offense since they by acting as benamidars are hiding the corruption money from discovery which may even amount to an offense under the Anti Money Laundering Act 2010. Thus, in our view there is sufficient material on record to show that there are reasonable grounds to connect petitioners No.4 and 5 to the commission of the offense as benamidars. They have also not been able to satisfy us that the grounds which form a pre condition for the grant of pre arrest bail are applicable to their case. As such the ad interim pre arrest bail granted to petitioners No.4 and 5 by order dated 30-06-2014 is hereby recalled and their petitions stand dismissed.

38. In Summary,

(a) The ad interim pre arrest bail granted to petitioner No.1 Ali Dino Gahoti, petitioner No.2 Muhammad Aslam Lund, petitioner No.3 Gulsher Ahmed Solangi, petitioner No.4 Kashif Ayaz Rana and petitioner No.5 Asif Ayaz Rana are all hereby recalled and their petitions all stand dismissed.

(b) The office is directed to give a direct intimation notice to Accused No.4 S.M. Ayaz Rana and his counsel for 22-09-2016 to show cause as to why the pre arrest bail granted to him by this Court on 21-05-2008 should not

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be cancelled/recalled bearing in mind as indicated in this order when his pre arrest bail was confirmed in 2008 NAB conceded that they had no material against him at that time whereas now in 2016 a reference has been filed against Accused No.4 and NAB are of the view that sufficient evidence has been gathered against him in order to warrant his conviction under the reference. Notice to NAB for the same date i.e 22-09-2016

(c) The Accountability Court hearing Reference No.10 of 2014 State Verses Ali Dino Gahoti and others is directed to complete the trial of the reference within 6 months of the date of this order. The office is directed to immediately send a copy of this order to the concerned Accountability Court for compliance.

Dated: 09-09-2016