

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Before: Mr. Justice Mahmood A. Khan.
Mr. Justice Mohammed Karim Khan Agha

C.P No.4232 of 2015

Muhammad Arif Teevno

Vs.

National Accountability Bureau and others

Petitions For confirmation of pre-arrest bail

C.P. No. D-1823/2016, C.P. No. D-3665/2016,
C. P. No. D-3694/2016, C.P. No. D-4555/2015,
C.P No. D-3800/2016, C.P. No. D-3791/2016,
C.P. No. D-4336/2016, C.P. No. D-4492/2016,
C.P. No. D-3710/2016, C.P. No. D-348/2016
C.P. No. D-3495/2016, C.P. No. D-3439/2016

Petitions for post arrest bail

C.P. No. D-3441/2016, C.P. No. D-3564/2016,
C.P. No. D-3673/2016, C.P. No. D-3623/2016,
C.P. No. D-4107/2016, C.P. No. D-4105/2016,

Counsel for the Petitioners:

Mr. Nisar Ahmad Bhanbhro, advocate for the petitioners in C.P. No. D-4232/2016, C.P. No. D-3665/2016 a/w the petitioners.

Mr. Nisar Ahmed Bhanbhro, advocate for the petitioners in C.P. No. D-3441/2016.

Mr. Shabbir Ali Bozdar advocate for the petitioner in C.P. No. D-1823/2016 a/w the petitioner.

Mr. Ghulam Shabir Dayo, advocate for the petitioners in C.P. No. D-3694/2016, C.P. No. D-3623, C.P. No. D-3439/2016 and C.P. No. D-4336/2016 a/w the petitioners.

Mr. Haji Shamsuddin Rajper, advocate for the petitioners in C.P. No. D-348/2016, C.P. No. D-3495/2016 and C.P. No. D-4555/2015 a/w the petitioners.

Mr.J.K. Jarwar, advocate for the petitioners in C.P. No. D-3791/2016 a/w the petitioner.

Mr.J.K. Jarwar, advocate for the petitioner in C.P. No. D-4107/2016.

Mr. Muhammad Farooq Jatui, advocate for the petitioner in C.P. No. D-3800/2016.

Mr. Shaikh Amanullah, advocate for the petitioner in C.P. No. D-3710/2016 a/w the petitioner.

Mr. Sohail Ahmed Khoso, advocate for the petitioner in C.P. No. D-3564/2016.

Mr. Abdul Raheem Abbasi advocate for the petitioner in C.P. No. D-4492/2016 a/w the petitioner.

Counsel for the Respondents:

Mr. Muhammad Zubair Malak A.D.P.G.A. NAB (Sukkur) a/w Abdul Majeed Memon, Special Prosecutor NAB (Sukkur) assisted by Masood Ahmed, Deputy Director/S.I.O NAB Sukkur.

On Court Notice

Mr. Nisar Ahmad Abro, learned D.A.G.

Date of hearing: 08-02-2017, 09-02-17, 15-02-2017, 16-02-2017, 21-02-2017 and 22-02-2017

Date of Order: 07-03-2017

ORDER

Mohammed Karim Khan Agha, J. By this composite order we propose to dispose of the above mentioned petitions filed by petitioners Muhammad Arif Teevno, Mst. Hameeda Khanum, Intiaz Ali Sahito, Khan Muhammad Pirzada, Ahmed Khan Solangi, Syed Sabul Shah, Ghulam Asghar Rajper, Abdullah Nagore, Mst. Jannat Khatoon, Mst. Shazia Parveen, Intiaz Ali Kalhor, Mst. Ajeeban and Nizamuddin Solangi for confirmation of their pre arrest bail and petitioners, namely, Manthar Ali Bhanbhro, Mumtaz Ali Solangi, Syed Sadat

Shah, Mashooq Ali Memon, Muhammad Karim and Sajjad Hussain for the grant of their post arrest bail.

2. All the petitioners have been accused of corruption and corrupt practices under the National Accountability Ordinance 1999(NAO) which lead to the National Accountability Bureau (NAB) filing NAB reference 06/2016 **The State verses Muhammed Arif Teevno and 62** others against them and others on 18-08-2016 which is currently proceeding before the Accountability Court at Sukkur.

3. The brief facts of the case as alleged by the prosecution are that during the period 01.01.2014 to 31.08.2015 Officers / Officials of District Accounts Office (DAO) Naushehro Feroze, in connivance and in collusion with Officers / Officials of National Bank of Pakistan (NBP)(Main Branch) Naushehro Feroze, NBP Bhiria City Branch, District Naushehro Feroze and United Bank Ltd (UBL), Nausherhro Feroze, along with agents, fake / dummy pensioners and non-pensioners, account holders beneficiaries and others by misuse of authority with the intention to embezzle and misappropriate have caused loss to the national exchequer to the tune of Rs.155,475,111/- (Fifteen Crores Fifty Four Laes Seventy Five Thousand One Hundred and Eleven Rupees Only) by issuing both fake and partially fake invoice sheets i.e. 32x complete fake / dummy sheets / credit invoices / pension payees bills, 19x other partial fake dummy pension invoice sheets were issued by District Accounts Office Naushehro Feroze, in the name of pensioners, non-pensioners and account holder beneficiaries who were not entitled for it and thereafter conveyed / credited all illegal amounts of all full and partial fake sheets and payee accounts only pension bills through agents to NBP and UBL which were thereafter illegally cleared by main branch of NBP and UBL. Subsequently all amounts were transferred / credited into the accounts of fake / dummy

pensioners / non-pensioners or into the accounts of account holders which were not pensioners or actual beneficiaries and all the above payments were reconciled / verified illegally by District Accounts Office without any objection which resulted in a huge loss to the national exchequer.

4. As can be seen there were broadly 3 to 4 categories of accused in this alleged scam; Firstly those who were bank officials (NBP and UBL), secondly those who were officers belonging to the DAO, thirdly agents and fourthly the vast majority of the accused whose number is about 40 out of the 63 accused who were beneficiaries in terms that wrongful amounts were paid into their accounts which they allegedly benefited from. It is alleged that all the bank officials and DAO officials and beneficiaries colluded and connived together in this alleged scam which would not have been possible without the collusion and connivance of each other and in particular the official accused.

5. The reference, in our view seems to be rather confusing, in that it seems to break down into the main and largest offense concerning illegalities in the payment of pensions and two much smaller off shoot cases which seem to have come to light during the course of the pensions investigation (and have also been included in this reference) which concern firstly the illegal creation of two ghost teacher accounts and the illegal payment of their salaries and secondly illegal payments which were made by two NBP officials at the NBP main branch to one beneficiary who was a driver in the irrigation department. So far as possible we have tried to clearly identify in the order which accused relate to the two off shoot scams in the sections dealing with the petitions for both pre arrest and post arrest bail.

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6. We have heard the learned counsel for the petitioners, ADPGA NAB and learned DAG perused the record very carefully and the case law cited at the bar by them.

7. As per settled law we have only made a tentative assessment of the material placed before us and this order shall not prejudice the case of any party at trial which shall be decided by the trial court on merit based on the evidence before it.

8. We shall deal with the case of each petitioner in turn dealing firstly with those petitioners who have applied for pre arrest bail. In every case both the pre arrest bail and post arrest bail petitions were vehemently opposed by the NAB. NAB in so doing placed reliance on the following cases reported as **Mrs. Farhana Muzaffar V. National Accountability Bureau and 4 others** (2017 P Cr. L J 1), **Abdullah Durrani V. The State** (2004 SCMR 1200), **Hamood-Ur-Rehman and others V. Chairman, National Accountability Bureau, Islamabad and others** (2016 P Cr. L J 934), **Faisal Hussain Butt v. The State and another** (2009 SCMR 133), **Abdullah Durrani and others V. The State** (2004 SCMR 1200) and an **Order by Hon'ble Supreme Court in Civil Petition No.787 of 2016 NAB V Mohammed Ali** (unreported) dated 10-05-2016 (which cancelled the grant of post arrest bail by this court dated 20-01-2016 to accused No.2 Muhammed Ali Panhwar in the reference who is one of the main accused in the reference being District Accounts Officer at the time of the offense who thereafter absconded).

9. In deciding these bail petitions (both pre arrest and post arrest) we have taken into account the fiduciary duty which officials of the DAO and Bank officials have to the public as well as to their employers as opposed to accused

who are members of the public and owe no such duty of trust in financial matters to other parties.

PETITIONS FOR PRE ARREST BAIL

Before considering petitioner No.1's case and that of the other petitioners on interim pre arrest bail in this case it is in our view necessary to observe that as is well known the conditions for the grant of pre arrest and post arrest bail are quite distinct in law and were well set out in the case of **Rana Mohammed Arshad V Muhammed Rafique** (PLD 2009 SC 427). In this case at P. 431 the following conditions need to be satisfied before pre arrest bail can be granted as set out below:

"9. Even since then, the said interpretation so made, the said powers so found and the parameters so prescribed, have been regularly and repeatedly coming up for scrutiny by the Superior Courts including this Court. But each time the matter was re-examined, the same was only re-affirmed. The said concept as it was initially propounded; as it developed and as the same stands today, may be summarized for the benefit of us all as under:--

- (a) grant of bail before arrest is an extraordinary relief to be granted only in extraordinary situations to protect innocent persons against victimization through abuse of law for ulterior motives;
- (b) pre-arrest bail is not to be used as a substitute or as an alternative for post-arrest bail;
- (c) bail before arrest can not be granted unless the person seeking it satisfies the conditions specified subsection (2) of section 497 of Code of Criminal Procedure i.e. unless he establishes the existence of reasonable grounds leading to a belief that he was not guilty of the offence alleged against him and that there were, in fact, sufficient grounds warranting further inquiry into his guilt;
- (d) not just this but in addition thereto, he must also show that his arrest was being sought for ulterior motive, particularly on the part of the police; to cause irreparable humiliation to him and to disagree and dishonor him;



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(e) such a petitioner should further establish that he had not done or suffered any act which would disentitle him to a discretionary relief in equity e.g. he had no past criminal record or that he had not been a fugitive at law; and finally that;

(f) in the absence of a reasonable and a justifiable cause, a person desiring his admission to bail before arrest, must, in the first instance approach the Court of first instance i.e. the Court of Session, before petitioning the High Court for the purpose."(bold added)

10. The requirement of malafide in order to qualify for pre arrest bail has recently been emphasized by the Hon'ble Supreme Court in the case of **Mukhtar Ahmad v. The State and others** (2016 SCMR 2046, relevant page 2066) as under:-

"..... This Court has repeatedly declared that the concession of pre-arrest bail cannot be allowed to an accused person **unless** the court feels satisfied about seriousness of the accused person's assertion regarding his intended arrest being actuated by mala fide on the part of the complainant party or the local Police"

11. **Petitioner No.1 in CP D 4232/2015 is Muhammad Arif Teevno** (accused No.1 in the reference) who at the time of the alleged scam was branch manager NBP Bhiria City.

12. According to learned counsel for petitioner No.1 the petitioner is completely innocent of any wrong doing in this case. According to him there is clear malafide on the part of NAB since NAB in preparing its investigation report and filing the reference had relied exclusively on an internal inquiry report carried out by the NBP which implicated him and had failed to follow up any other leads or carry out any further inquiries. Even otherwise he had no role to play in the alleged scam. This was because he was the branch manager at NBP Bhiria City and his role was limited to paying in to the relevant accounts the cheques which he

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had received from the DAO which had been verified by the DAO and in effect he was simply a post box whose only job was simply to pay in the cheques which he had received and as such he had not misused or failed to exercise his authority in any way. He was simply following standard banking procedure. With regard to the allegations that he had received pecuniary advantage on account of his role in the alleged scam he admitted that there was about RS50 lacs in his bank account but claimed that this was the accumulation of his salary and other lawful income during the course of his career and that no lump sums had been received which could not be accounted for. With regard to a flat which he was purchasing for 38 lacs he submitted that this had been made possible on account of a loan which he had received from the bank and which he was paying back in installments and thus he had received no pecuniary advantage whatsoever. Thus, according to learned counsel he was completely innocent of any wrong doing and his pre-arrest bail should be confirmed.

13. The petitioner No.1 as noted above submitted that there had been malafide on the part of NAB as they had blindly relied on the NBP internal inquiry and not carried out their own inquiry. We find no substance in this submission. This is because the internal inquiry implicated the petitioner No.1. NAB has not confined itself to petitioner No.1 in its reference but it has through its own inquiry/investigation also added the additional names of 62 other accused including other bank officials, officials of DAO, agents and a large number of beneficiaries. In addition it has come to the conclusion that a far greater amount has been embezzled than was suggested by the findings of the internal inquiry. Thus we find that there has been no malafide on the part of NAB and on this ground alone petitioner No.1's petition for pre arrest bail should be recalled.

14. We have however touched upon the merits of the case and it appears in our view that there is sufficient material to prima facie connect the petitioner No.1 to the offense with which he is charged.

15. Petitioner No.1 has been assigned a specific role in the reference which is set out as under at para's 3 to 4 of the reference:

3. That the investigation report reveals that Accused No.1 / Muhammad Arif Teevno Ex-Branch Manager, National Bank of Pakistan, Bhiria City Branch, District Naushehro Feroze, during his incumbency from 01.01.2014 to 20.08.2015 in connivance with accused No.2 to 4, & 10 received fake / dummy "payee account only" pension bills in the name of several pensioners pertaining to 32x complete invoices and 19x partially fake invoice sheets of fake/dummy pensioners issued from accused No.2 to 4 of District Accounts Office Naushehro Feroze, of pensioners and non-pensioners as beneficiaries who were not legally entitled for the lump sum pensioners. Thereafter, accused No.1 prepared collection vouchers of 396x "payees account only" pension bills/invoices and got them cleared from NBP Main Branch Naushehro Feroze. After clearance of "payees account only" pension bills, accused credited the amounts into the accounts of the other persons/pensioners instead of the actual beneficiaries on whose names bills were initiated. Thus, accused Muhammad Arif Teevno credited/entered the lump sum amounts of payees accounts only pension bills/vouchers into the accounts of accused No.13, 14 and 20 to 63 and then accused No.1 encashed or transferred all the illegal amounts illegally in connivance with accused No.2, 6 to 10, 13, 16, 19 to 63 to the tune of Rs.8, 18, 17,843/- (Eight Crores Eighteen One Lac Seventeen Thousand Eight Hundred and Forty Three Only) and caused loss to the national exchequer.

4(a). That the investigation report further revealed that illegal additional fake "payees account only" pension bills were repeatedly issued in the name of accused No.13,14 and 20 to 63 pensioners and non-pensioners beneficiaries repeatedly in addition to their monthly pension/others payments of accused No.13,14 and 20 to 63 for which they were not legally entitled. **All the pension payments were issued by accused No.2 and 3 illegally which was being credited by accused No.1 into the accounts of accused No.13, 14 and 20 to 63 and caused loss to the national exchequer to the tune of Rs.4, 10, 97,453/- Four Crores Ten Lac, Ninety Seven Thousand four Hundred and Fifty Three Only) and the total loss is Rs.12, 29, 15,296 (Twelve Crores Twenty Nine Lac Fifteen Thousand Two Hundred and Ninety Six Only).**

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4(b). That the investigation report further reveals that accused No.1 having gains in the form of amounts credited to the tune of Rs.50,07,786/- (Fifty Lac Seven Thousand Seven Hundred and Eighty Six only) into his personal account No.2-7, NBP during the above incumbency period and also purchased flat No. 106 United Complex Hyderabad in the name of his wife accused No.11/benamidar for the amount of Rs.38,00,000/- (Thirty Eight Lac only) with the connivance of accused No.12. Additionally an amount of Rs.78,42,036/- (Seventy Eight Lac forty Two Thousand and Thirty Six only) were credited during this period in the account of his wife/accused No.11. Therefore accused No.1 is involved in embezzlement/misappropriation of government funds willfully, intentionally, dishonestly misused his authority and failed to exercise his authority to prevent rendition of undue benefit which he could have prevented by exercise of his authority and he acted in conspiracy, connivance of accused No.2 to 4, 6 to 13, 15, 16 & 19 to 63 and caused loss to the national exchequer to the tune of Rs.12,29,15,296/- (Twelve Crores Twenty Nine Lac Fifteen Thousand Two Hundred and Ninety Six Only).

16. The petitioner No.1 admitted that he was aware of the bank's, "know your customer policy" and as such he should have known whether all the accounts were those of genuine or fake pensioners especially as he knew the purpose for which those funds were sent and the rough amount to be paid into those accounts. In our view it beggars belief that a man holding his position and of his seniority was unaware of non pensioners accounts in which money was illegally paid, or pensioners accountants where exorbitant amounts (well beyond there monthly pension entitlement) was being paid on numerous (as opposed to isolated) occasions.

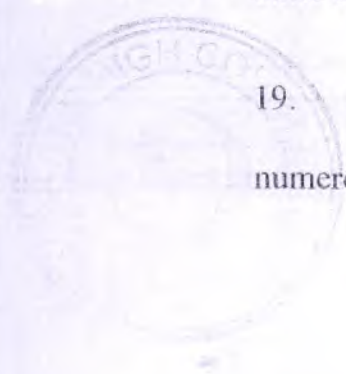
17. Furthermore, in the covering letter sent by NBP to NAB on 28-08-2015 by 3 senior officers of the NBP it contained a complaint from Mr.Mohammed Dayo AVP NBP Main Branch Khairpur which specifically set out as under:

"I am working as AVP National Bank of Pakistan main Branch Khairpur, we are maintaining a branch known as Bhiria City Branch District Naushehro Feroze, the branch is category 'I' Branch having 4 staff members, **the Branch Manager has to discharge the duties and functions as Operations Manager, Compliance officer and Branch Manager.** The Branch was established to provide general banking services

to public so also for the payments against Government Treasury Bills including the pension/salary bills issued by Governmental Departments. The procedure adopted for the payment against Government Treasury Bills was routed through the Bhiria Branch who sent all Treasury Bills under its advice to Naushehro Feroze District Branch for clearance and the said District Branch after verifications makes entries debiting the Government Exchequer and crediting the Bhiria Branch for onward payments to the beneficiaries of those Bills. "

18. This position has not been disputed/denied and clearly shows that not only was petitioner No.1 Branch manager but he was operations manager and compliance officer which further fortifies the above view that it was his responsibility to ensure that the accounts where the funds were paid into were genuine pensioner accounts, were not private accounts and the correct amounts were being paid in. This in our view clearly shows that the petitioner No.1 was prima facie acting in collusion and connivance with officers of the DAO, Ghulam Ashgar Rajper (accused No.10 who acted as an agent for petitioner No.1, other accused in the DAO and many of the beneficiaries) and other beneficiaries and that he both failed to exercise his authority and misused his authority to the benefit of other accused in the reference (the beneficiaries). Not once did he ever question the payee accounts or the amounts being paid into the accounts despite being compliance officer. In our view simply to blame everything on the DAO is no defense as he had his own specific roles and responsibilities to play as branch manager, operations manager and compliance officer which in our view he intentionally failed to fulfill. The fact that he **continuously and regularly failed** to perform any of his duties is a strong indication that he was acting in collusion and connivance with the DAO's, Ghulam Ashgar Rajper (accused No.10) and other beneficiaries.

19. In our view petitioner No.1 has also not been able to adequately explain the numerous transfers ranging between RS300,000 and RS100,000 into his personal



bank account in addition to his salary which tends to suggest that these funds were transferred to him by beneficiaries who had benefited from his misuse of authority and failure to exercise authority by allowing large illegal and unauthorized overpayments into pensioner accounts or accounts which did not even belong to pensioners. Like wise in our view his story of a loan to purchase his flat in his wife's name does not seem credible based on the material before us.

20. His story that he was simply a post box is also belied by the fact that it is clear from the banking documents which have been produced before us that he was not just paying these sums into certain accounts. Rather he was receiving bills and making short credit entries. He was receiving bills in the name of X and paying those bills into the account of Y and as such he was not just a post box but was intricately involved in the alleged scam.

21. The S.161 statements of Zubair Ahmed Jamali, Ms Safia Abbas, Ms Immazadi, Kaneex Akhtar and a letter by Ms Nosheen to DG NAB and in particular Muhammed Qasim Dayo also fully implicate petitioner No.1 in the alleged scam and show his close association with Ghulam Asghar Rajper in the alleged scam as his agent who had been sent from the office of the DAO with the fake and partially fake bills.

22. Thus for all the above reasons we are of the view that prima facie sufficient material exists to connect petitioner No.1 to the offense for which he is charged and as we have also found no malafide on the part of NAB hereby recall his order for pre arrest bail granted by this court dated 11-11-2015.

23. **Petitioner No.2 in CP.D 3665/2016 is Ms Hameeda Khanum** (accused No.11 in the reference) who is the wife of petitioner No.1 (Muhammed Arif Teevno) who was a junior school teacher at the time of the alleged scam.

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24. According to learned counsel for petitioner No.2 petitioner No.2 is completely innocent of any wrong doing and has been malafidely included in this reference by NAB and there is not a shred of evidence against her. He explained that she had made a payment for her flat through Mr. Zeeshan who was her cousin and that there was nothing wrong in that. He also pointed out that there were no large payments or any irregularities in her bank statements. There was only one large payment of RS 7, 00,000 which was her salary advance. Thus, according to him she was completely innocent of any wrong doing and her pre arrest bail should be confirmed.

25. Petitioner No.2 has been given a specific role in the reference at Para 14 and 15 which are set out below:

"14. That the investigation report reveals that Accused No.11/Mst. Hameeda Khanum w/o Muhammad Arif Teevno is a Junior School Tacher (JST) and benamidar of accused No.1 Mr. Arif Teevno and accused No.11 purchased during 01.01.2014 to 31.08.2015 a flat in United Complex Hyderabad for Rs.38,00,000/- (thirty Eight Lac only) and cheque No.615059 dated 24.12.2014 of accused No.21 of Rs.3,25,000/- (Three Lac Twenty Five Thousand Only) which is dummy beneficiary has also been given by Hameeda Khanum for the payment to the builder of above flat through the account of Mr. Zeeshan Rehman accused No.12 for the payment of above Rs.38,00,000/- (Thirty Eight Lac only) and investigation further reveals that Rs.78,42,036/- (Seventy Eight Lac Forty Two Thousand and Thirty Six only) has also credited into her accounts No.11-6 (new re-numbered 30/4459107) NBP Bhiria City Branch, during above period, therefore, accused No.11 is involved as abettor, benamidar and instrumental in causing loss to the national exchequer.

15. That the investigation report reveals that accused No.12 / Zeeshan Rehman is relative, conspirator, abettor and instrumental to accused Nos. 1 and 11 and abetted, facilitated the accused No.1 and 11 to misappropriate ill-gotten money through his personal account as through cheque No.051098 dated 08th May 2014, Cheque No.0510975 dated 04th May 2014 and cheque No.14320590 dated 11th May 2015, Rs.2,00,000/- received from both accused and thereafter purchased the flat on behalf of accused No.11 and also received cheque No.615059 dated 24th December, 2014 of Rs.3,25,000/- (Three Lac Twenty Five Thousand only) of accused No.21 / Syed Sabul Shah and then after encashing, deposited the above amounts for the purchase of flat No.106 United Complex

Hyderabad in the name of accused No.11, therefore, the accused No.12 is involved as facilitator, abettor and conspirator in connivance with accused No.1 and 11 and involved in misappropriation of government fund which resulted loss to the national exchequer.

26. Petitioner No.2 has not been able to give any plausible explanation as to why she paid for the flat through Mr. Zeeshan who is her cousin. If the funds for the flat had been untainted in our view she would have paid it out of her own account by cheque or through cash. Mr. Zeeshan has entered into a plea bargain with NAB and admitted his guilt. It is therefore prima facie evident that petitioner No.2 was the benamidar of petitioner No.1 (who is her husband) and was being used to hide the ill gotten money which her husband was receiving from beneficiaries whom he had favored. Furthermore, there are large amounts in her bank account which she has not been able to adequately explain. A letter by Ms Nosheen to DG NAB also shows the role which petitioner No.2 played along with her husband in giving effect to this alleged scam which reads as under:

"To,

The Director General,
NAB Sukkur.

Sir,

I Mst. Nosheen wife of Abdul Ghaffar (late) today appeared in the office of NAB. Mr. Masood Ahmed the Investigating Officer of NAB showed me details of my bank account and told that transaction of about Rs.3364822/- has been made through your account. I replied that my late husband Abdul Ghaffar s/o Umaruddin was a Teacher in Primary School who expired on 12 May, 2015 due to heart attack. I was in Iddat period when my neighbourer Mst. Hameeda Khanum Kashmiri wife of Muhammad Arif brought me at their home because after death of my husband behavior of my in-laws was not good with me. Then one day Hameeda Khanum Kashmiri and her husband Muhammad Arif got opened my bank account in National Bank of Pakistan Bhiria city Branch District Naushehro Feroze. They said that your pension papers are to be prepared so you may give us blank cheques duly signed by you later on your pension

will be made. After that they gave me Rs.5000/- and then neither they paid me any amount nor I received my pension book and cheque book. My cheque book is till lying with Hameeda Khanum Kashmiri, and pension is also not drawn by me. (bold added)

Sir, I never went in the office of District Accounts Officer, Naushehro Feroze, neither got any bill nor deposited in my account; only my mistake is that I put my signatures on blank cheques and gave them, for that mistake I may be excused. I am a widow and have a minor daughter; for her maintenance I am facing very hard. Her age is three years. My statement is correct."

27. In our view she has not been able to make out a case of malafide on the part of NAB for including her in the reference and in our view there is also prima facie sufficient material to connect her with the offense of at a minimum aiding and abetting her husband and as an accomplice and as being a beneficiary through being used as a benamidar. As such petitioner No.2's pre arrest bail granted by this Court through order dated 26-08-2016 is hereby recalled.

28. **Petitioner No.3 in CP D. 3439/2016 is Imtiaz Ali Sahito** (Accused No.4 in the reference) who at the time of the alleged scam was senior auditor DAO Naushehro Feroze.

29. According to learned counsel for petitioner No.3 there is no specific allegation in the reference against him, he did not prepare any bills and he had no authority to sanction the same. His role was only one of reconciliation after the whole process had been completed i.e. the bill sanctioned, bill/cheque encashed at the relevant bank which involved him mechanically inputting the data of the bills and other documents into a computer. Furthermore, he submitted that he was on leave when the embezzlement took place and his place was filled by accused No.3 (Nizamuddin Solangi) and in this respect he placed on record documents showing his approved leave. He submitted that the malafides of the NAB was evident from the fact that they had not even bothered to check whether he was present on duty

at the time when the offense was committed and he had been malafide roped in the case without any reason. Thus, according to him he was completely innocent of any wrong doing and his pre arrest bail should be confirmed.

30. Petitioner No.3 has been given a specific role in the reference which is at paragraph 7 of the reference and states as under,

"That the investigation report reveals that accused No.4 / Imtiaz Ali Sahito, Senior Auditor, District Accounts Office, Naushehro Feroze, during his incumbency dated April 2010 to August 2014, in connivance with accused No.1 to 3, 5, 8 and 19 **being a head payment section** willfully failed to exercise his authority intentionally, fraudulently, dishonestly, by not tallying the daily accounts for reconciliation figure of expenditure incurred on the "pension account return" received from National Bank of Pakistan (Main Branch) District Naushehro Feroze through bank scroll and payees accounts bills. The accused by misusing his authority willfully failed to exercise his authority to prevent rendition of undue benefits by not physically tallying the figures with the bills / payment records of pension section of District Accounts Office, Naushehro Feroze and also never complained or objected the illegal fake payments and pension bills issued in the name of several pensioners as well as non pensioners. Therefore, accused acted in furtherance of common intention and in conspiracy and in connivance with accused No.1 to 3, 5, 8, 19 to 63, and involved in misuse of authority and misappropriation which resulted in loss to the national exchequer."

31. In essence petitioner No.3 allegedly did not tally the accounts at the end of the process by making reconciliation of the same and on account of his failure to do so the alleged scam went unnoticed.

32. Even if we accept that the petitioner was on leave from 16-01-2014 until 15-05-2014 (approx 5 months) this does not cover the whole period when the alleged offense took place. As per reference the offense took place between 01-01-2014 and 31-08-2015 and as such petitioner No.3 was available on duty for more than a year during the period when the offenses were committed.

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33. We have been shown a copy of receipts and payments dated 02-01-2014 (which was before he went on leave) in connection with the alleged scam which according to NAB bears his signature. Although he denies his signature in our view it bears a likeness to the signature on his petition.

34. The fact that the petitioner merely played a mechanical role as a person who simply entered data into a computer is also belied by both the S.161 statement of Dhani Bux Khan Jahejo a sub accountant who gave the precise procedure which the petitioner was required to undertake and even the rules which petitioner No.3 himself relied upon (Combined set of Treasury Rules Vol I and II) which specifically provide at Section V under the heading daily posting of accounts as under:

"Daily Posting of Accounts"

464. **When the daily account with the challans and vouchers received from the Bank, the account shall first be examined against the challan and vouchers which support it. Then the challans and vouchers which have been already approved and registered by the Treasury Officer shall first be marked off in the register of challans issued and orders for payment, that is, the date of discharge shall be noted against the entries of them in those registers. Each item of receipt or payment will then be posted from the daily account, with its challans and vouchers into the cash book either direct or through some subsidiary register, and then net difference between the total receipts and the total payment posted in the Register of State Bank Deposits in accordance with the directions contained in this behalf in the Account Code, Vol.II. The daily postings in this register must be checked and agreed, where necessary with the daily schedules received under clause (iii) _ of rule 457. (bold added)**

35. In our view it is quite apparent from the aforesaid S.161 statement and the above rule that the petitioner No.3 did not perform his function of reconciliation as was required and in this regard deliberately failed to exercise his authority which lead to a huge loss to the national exchequer. Had he exercised his authority

properly as per the requirements and obligations of his job then the alleged scam would have been stopped. In fact the failure on the part of the petitioner No.3 to exercise his authority as per rules ~~time and again~~ tends to show that he was fully involved in the alleged scam along with other official accused in the reference.

36. Thus, based on the above discussion we are prima facie of the view that there are reasonable grounds to connect the petitioner No.3 to the offense for which he is charged.

37. Furthermore, he has not been able to point out any malafide on the part of the NAB and as such the interim pre arrest bail granted to petitioner No.3 by this Court by order dated 16-08-2016 is hereby recalled.

38. **Petitioner No.4 in CP D. 1823/2016 is Khan Muhammad Pirzada** (Accused No.5 in the reference) who at the time of the alleged scam was Customer Service Relationship officer at UBL Naushehro Feroz.

39. Learned counsel for petitioner No.4 submitted that the petitioner No.4 was completely innocent of any wrong doing and that he had been falsely implicated in this matter by NAB on account of malafide. According to learned counsel there is no material against him, no recovery has been made from him and he has not signed any incriminating document. Thus, according to him he was completely innocent of any wrong doing and his pre arrest bail should be confirmed.

40. According to NAB the role of petitioner No.4 was similar to that of petitioner No.1 in that in effect he was the branch manager. He was also Customer Service Relationship officer at UBL which was dealing with the pensions

payments of the pensioners. Petitioner No.4 has been given a specific role at Paragraph 8 of the reference which states as under:

"8. That the investigation report reveals that Accused No.5 / Khan Muhammad Pirzada being Customer Services Relations Officer (CSR) / Manager United Bank Ltd. District Naushehro Feroze, in connivance with accused No.2 & 3, **received pension payees accounts only bills from accused No.2 & 3 and thereafter prepared collection vouchers of other than actual beneficiaries account and enter the payees accounts bills/vouchers in the accounts of accused No.17 and 18.** Therefore, accused No.5 is involved in embezzlement/misappropriation and willfully, intentionally, dishonestly, failed to exercise his authority to prevent the rendition of undue benefit which he could have prevented by exercise of his authority. **Accused No.5 illegally deposited in the account of Jameel Ahmed Babar / Accused No.17 108x pension payees accounts bills amounting to Rs.1,57,34,514/- (One Crore Fifty Seven Lac Thirty Four Thousand Five Hundred Fourteen Only) and also illegally deposited 20x pension payees bill in the account of Ghulam Hyder Moro / accused No.18 to the tune of Rs.96,68,946/- (Ninety Six Lac Sixty Eight Thousand Nine Hundred and Forty Six Only), total Rs.2,54,03,460/- (Two Crores Fifty Four Lac Three Thousand Four Hundred and Sixty Only).** Therefore the accused No.5 acted in furtherance of common intention / in connivance and conspiracy with accused No.2 to 3, 17 & 18 and involved in misuse of his authority, misappropriation and embezzled amount to the tune of Rs.2,54,03,460/- (Two Crores Fifty Four Lac Three Thousand Four Hundred and Sixty Only) and caused loss to the national exchequer."

41. The petitioner No.4 was dealing with the payment of pensions to pensioners and as such could only authorize payments to pensioners however the record shows that he deliberately authorized payment to **Jameel Ahmed Babar / Accused No.17** (who is an absconder in the reference) 108x pension payees accounts bills amounting to Rs.1, 57, 34,514/- and **illegally deposited 20x pension payees bill in the account of Ghulam Hyder Moro / accused No.18** (who is an absconder in the reference) to the tune of Rs.96, 68,946/-. Both of these were **private persons and NOT pensioners** and petitioner No.5 would have known that on account of his position and role and the fact that the pensioners had to produce their pension books for payment yet he illegally authorized on many

occasions (this was not a one off accident or mistake) payments to two private persons (beneficiaries) who were not entitled to the same. In our view prima facie this was a clear misuse of authority on his part which was deliberately and intentionally done in connivance/collusion with the other official accused in the reference which caused a loss to the exchequer and as such in our view there is prima facie sufficient material on record to connect him to the offense with which he is charged.

42. Furthermore, the petitioner has not been able to show any malafide on the part of NAB. In fact the initial complaint was against accused No.1 who belonged to NBP whereas the petitioner No.4 was employed by UBL which is a clear indication that his involvement in the alleged scam only came to light during NAB's inquiry/investigation and he has not been involved for malafide reasons

43. As such since there has been no malafide on the part of NAB and in our view since there is sufficient material on record to prima facie connect the petitioner No.4 to the Commission of the offense his pre arrest bail granted by order of this court dated 27-04-2016 is hereby recalled.

44. **Petitioner No.5 in CP D. 3694/2016 is Ahmed Khan Solangi** (Accused No.9 in the reference) who at the time of the commission of the offense was the cashier at NBP Bhiria.

45. According to learned counsel for petitioner No.5 he had no role to play in the alleged scam. He was simply a cashier whose job was to pay sanctioned cheques and nothing more and that at a minimum his case is one of further inquiry and as such he is entitled to have his pre arrest bail confirmed. He did not plead any malafides on the part of the NAB.

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46. Petitioner No.5 has been given a specific role at para 12 of the reference which states as under:

"12. That the investigation report reveals that Accused No. 9 / Ahmed Khan Solangi, during his incumbency as Cashier, National Bank of Pakistan (Bhiria City Branch) District Naushehro Feroze in connivance and conspiracy with accused No.1, 10,13,20 to 63 by misuse of his authority kept disbursing the amounts continuously, illegally and repeatedly into the accounts of accused No.13,20 to 63 without scrutiny and failed to prevent grants/renditions of illegal benefits, thus accused No.9 by misuse of his authority caused loss to the national exchequer." (bold)

47. At this stage it is worth mentioning that the petitioner No.5 was working in the small 4 man NBP Bhiria branch under the management of petitioner No.1 (accused No.1) in the reference. It is true that he was a junior banking official however he would still have been aware of the bank's "know your customer" policy. He would also have been aware since he was actually handling the bills/cash/cheques that the money which was being paid was of government money payable in respect of pensions. He would also have been aware that the pensioners had to produce their pension books in order to be paid and that only pensioners were entitled to be paid. Notwithstanding this he continually and regularly paid money into unauthorized accounts and he would have known that these transactions were unauthorized and that the persons he was paying it to were not entitled to payment.

48. In addition his private account contains numerous high value transfers in terms of credits such as 9.75 lacs, 2.4 lacs and other lesser but more frequent transfers which petitioner No.5 has not been able to adequately account for.

49. In our view all the above material when taken together leads us to the irresistible conclusion that prima facie petitioner No.5 as cashier was in league

with petitioner No.1 in colluding and conniving with other co-accused in operating this alleged scam. Had the petitioner No.5 objected to or questioned any of these transactions which he must have known to have been illegal the whole alleged scam would have been prevented at his branch of NBP. In our view his conduct is a clear failure to exercise authority which lead to a loss to the exchequer and which was carried out in connivance with the other official accused in particular petitioner No.1 and thus in our view there is prima facie sufficient material on record to connect him to the offense with which he is charged in the reference. Since there is also no malafides on the part of NAB we hereby recall petitioner No.5's pre arrest bail which was granted to him by this Court through order dated 31-08-2016.

50. **Petitioner No.6 in CP D. 3800/2016 is Syed Sabul Shah** (Accused No.21 in the reference) who at the time of the commission of the offense was a retired Doctor and as such was a pensioner.

51. Learned counsel for petitioner No.6 submitted that petitioner No.6 was a retired doctor of good standing who collected his monthly pension from the bank. He never checked his bank balance and did not receive any bank statements. He admitted that large amounts in excess of his pension had been paid into his account but submitted that the petitioner No.6 was completely unaware of such payments which were very rapidly moved in and out of his account. According to him he only became aware of the excess payments when he received a call up notice from the NAB and this fact was brought to his attention. He submitted that if his account had been used this had been illegally done by the bank officials and he was completely unaware of such unauthorized transactions.

52. The petitioner has been given a specific role at paragraph 24 of the reference which states as under:

"24. That the investigation report reveals that accused No.21 / Sabul Shah was a pensioner and retired Doctor by profession and drawing illegal pension "payees account only" bills in his account in connivance with accused No.1 to 4, 8, 9, 10 & 19, 26x pension advices / invoices of other fake/dummy pensioners were credited in his A/c No. 1767 of NBP Bhiria City Branch, Naushehro Feroze of Rs.61,01,865/- (Sixty One Lac One Thousand Eight Hundred and Sixty Five only) for which he was not legally entitled and investigation report further revealed that additional more fake pension invoices / payees account bills were issued in his name for Rs.56,40,359/- (fifty Six Lac Forty Thousand Three Hundred Fifty Nine Only) which were illegally credited in his above mentioned account. Therefore accused No.21 is involved in misappropriation of Govt. Funds as beneficiary account holder, abettor and facilitator in connivance with other above mentioned accused persons to the tune of Rs.1,17,42,224/- (One Crore Seventeen Lac Forty Two Thousand Two Hundred and Twenty Four Only) which caused loss to the national exchequer.

53. Petitioner No.6 is not a layman. He had served two years in the Army as an officer (captain) and thereafter had a lengthy career as Doctor in Government service where he retired in grade BPS 19. He can be regarded as a highly educated person. In his own petition he has admitted giving blank cheques to petitioner No.1/accused No.1 Muhammad Arif Teevno the branch manager of NBP Bhiria which to our mind was completely unwarranted and unexplainable for a man of his education which he has failed to provide any explanation for. Even otherwise from the record it appears that he also had access to his own cheque book independent of accused No.1 since some of the cheques are written by him (both words and figures) which even tends to contradict the stance which he has taken i.e. he had no access to his cheque book which he had given to the Manager of NBP Bhiria (accused No.1). It also appears from his bank statement that large sums of money were regularly transferred in and out of his personal bank account at NBP from 02-01-2016 to 16-07-2015 (around the time when the alleged scam was uncovered) which amounts to a period of around one year and six months. In

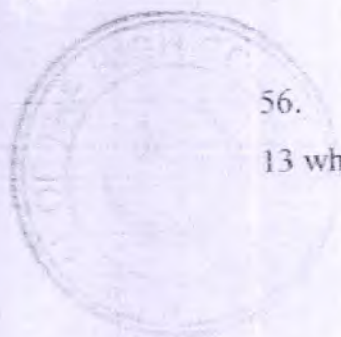
our view bearing in mind his unexplained and uncalled for handing over of blank cheques to accused No.1, considering his level of education, the long time period during which regularly illegal transactions were made in his account which in total reached over one crore rupees and his otherwise frequent use of his account petitioner No.6 was fully aware of the alleged scam and was in connivance with accused No.1 in perpetuating it and as such in our view there is prima facie sufficient material on record to connect petitioner No.6 to the offense with which he has been charged. Since there appears to be no malafide on the part of NAB the interim pre arrest bail granted to petitioner No.6 by this court is hereby recalled.

54. **Petitioner No.7 in CP D. 4555/2015 is Ghulam Asghar Rajper** (Accused No.10 in the reference) who at the time of the commission of the offense was classified as an agent for accused 1 to 4 and other beneficiaries in the reference.

55. Learned counsel for petitioner No7 denied that petitioner No.7 was an agent of anyone. Rather he was simply an art school teacher receiving a salary of around RS 70,000 per month. He had nothing to do with any DAO, banker or beneficiary who was an accused. He denied that he owned any land. He submitted that the malafide on the part of NAB was evident from the fact that they had included a car in the reference against him which was registered by him in 2012 which was before the period of the offense mentioned in the reference and was not purchased out of any illicit funds as alleged by NAB on account of his involvement in this alleged scam. For all the above reasons he submitted that petitioner No.7 was entitled to have his pre arrest bail confirmed.

56. That petitioner No.7 has been given a specific role in the reference at para 13 which states as under:

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"13. That the investigation report reveals that accused **No.10/Ghulam Asghar Rajper**, acted as an agent of District Accounts Officer Naushehro Feroze, National Bank of Pakistan (Bhiria City Branch) Naushehro Feroze and beneficiaries / accused No.11, 13 and 20 to 63 and illegally, unlawfully collected Govt. fund which was unlawfully credited in the accounts of accused No.11,13,20 to 63 fake / dummy pensioner and non-pensioners to the tune of Rs.1,33,53,324/- (One Crore Thirty Three Lac Fifty Three Thousand Three Hundred Twenty Four only). **The accused is involved in this offence as an agent, abettor, conspirator as well as instrumental to misappropriate the embezzled amount of national exchequer** and the accused also acquired gains during this period in the form of 84 Acres 25 ghuntas agricultural land in his name in Deh Syed Shuja, Tappa Qaisar Mari, Taluka Mehrabpur District Naushehro Feroze while accused also possessed Toyota Corolla model 2012 (AYV-488) 2013 (BBD-59C) 2014 (BBQ-180) which were acquired during 01.01.2014 to 31.08.2015 and caused loss to the exchequer".

57. According to NAB the petitioner No.7 enjoyed a good relationship with the officials of the DAO in particular Nizamuddin Solangi (Ex Sub Accountant DAO and accused No.3 in the reference) and petitioner No.1 (accused No.1 in the reference) who was manager of NBP Bhiria and his modus operandi was to illegally and unauthorizedly collect bills from Nizamuddin Solangi (accused No.3) which he would provide to Muhammed Arif Teevno (accused No.1) the NBP branch manager who would then change the bills and pay them into accounts of beneficiaries who were not entitled to receive such funds and as such he was acting as an agent on their behalf.

58. His bank statement shows that he received large amounts by way of transfer separately on a regular basis amounting on each occasion to amounts of around 14 lacs, 5 lacs, 3.3 lacs, 6.6 lacs, 4.6 lacs, 12 lacs etc in addition to his monthly salary which he was completely unable to account for. A Form VII which is placed on the record also shows his land holding purchased during the time of the offenses alleged in the reference. It was also revealed that he purchased a corolla car within the period of the offense and that he even bought another corolla car the cost of

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which he could not account for. Likewise copies of checks brought on record show that the petitioner No.7 was continuously drawing cash cheques from his account from the prima facie ill gotten funds as mentioned above. Page 283 of the Investigation Report (IR) also clearly indicates that accused No.11 (petitioner No.2 –the wife of petitioner No.1/accused No.1) had transferred RS 12,00,000 into petitioner No.7's account which went unexplained and shows in our view the close nexus between petitioner No.1/accused No.1 and petitioner No.7 (which is further corroborated by the S.161 statement of Zubair Ahmed Jamali) and his involvement in this alleged scam as an agent. When we also consider the S.161 statements of Mst Safia Abbass, and Wazir Ali, Sajjad Hussain, Mst Kaneez Akhtar, Muhammed Karim, Mst Immazadi and consider the other material mentioned above against the petitioner No.7 in a holistic manner we have come to the irresistible conclusion that there is prima facie sufficient material on record to connect petitioner No.7 to the offense with which he has been charged in the reference.

59. We also do not find the mention of the corolla car early in the crime period as malafide on the part of the NAB when considered with all the other material against the petitioner No.7 which has been placed on record. Thus, we find no malafide on the part of NAB.

60. Thus, since there has been no malafide on the part of the NAB and we are of the view that there is sufficient material on record to connect the petitioner No.7 with the offense with which he is charged we hereby recall his interim pre arrest bail.

61. **Petitioner No.8 in CP D. 3495/2016 is Abdullah Nagore (Accused No.7 in the reference)** who at the time of the commission of the offense was Data

processing assistant DAO Nauresho Feroze. In many ways this is an off shoot of the main case as it concerns the illegal opening of salary accounts and the illegal payment of salaries to 2 ghost teachers (Mst .Murk accused No.50 and Sajjid Ali accused No.54 both of whom have absconded) which is a part of the case concerning his boss (Syed Saadat Shah accused No.6 in the reference) who is on post arrest bail and whose case is dealt with later in this order.

62. Learned counsel for petitioner No.8 submitted that his position of authority in the DAO hierarchy was much lower than had been ascribed to him by the NAB. According to him he was only a data processing entry operator whose sole role was to input data which he received from his boss (Syed Saadat Shah accused No.6 who, as mentioned earlier, is on post arrest bail and whose case is dealt with later in this order) and as such he had no idea as to why certain persons accounts were being opened and why they were being paid and whether or not they were ghost employees. He submitted that this information would have been known by his superior (accused No.6 Syed Saadat Shah) but not him. He had no authority to issue any cheques and had no role to play in checking people's identity or whether they were entitled to payment or not. Thus, according to him he was completely innocent of any wrong doing and his pre arrest bail should be confirmed.

63. In essence petitioner No.8's defense is to pass the buck onto his boss accused No.6. The petitioner No.8 however has been given a specific role in the reference at para 10 which states as under:

"10. That the investigation report reveals that accused No.7 / Abdullah Nagore, during his incumbency as Data Entry Operator, District Accounts Office, Naushehro Feroze in connivance with accused No.2, 6 released the salaries of accused No.50 & 54 in connivance with each other without seeking FO-2 form from the Education Department and allowed the fake IDs to withdraw salaries

as well as illegal pension payees bills to accused No. 50 & 54 for which they were not entitled as being ghost teachers, therefore, accused No.7 by his active connivance with accused No.2 and 6 released salaries of accused No.50 & 54 by changing data of SAP system of DAO Naushehro Feroze and without seeking FO Form thus accused No.7 failed to exercise his authority and rendered illegal benefits to accused 50 & 54 and caused loss to the exchequer."

64. Petitioner No.8 was an officer of the DAO and as such held certain fiduciary responsibilities while dealing with the payment of Government funds. In our view it is too simplistic simply to say that he was a data imputer only and all the responsibilities rested on the shoulders of his superior accused No.6. In our view the material on record shows that he was more than a simple data processor and that he was fully involved in certain aspects of the alleged scam which he could have prevented had he not misused his authority or failed to exercise his authority. In this case from the material placed before us it is apparent that it was he who opened the two fake teachers accounts (Mr.Sajid and Ms Murk) through his own confidential log on number without verifying their FO 2 forms i.e. that they were in fact employees of the education department. Thereafter he continued to pay their monthly salaries which was collected by ghost employees (accused 50 and 54) who were not working for the education department. In our view therefore there is prima facie sufficient material to connect the petitioner No.8 with the offense for which he has been charged through his connivance and collusion with accused No.6 and through his misuse of authority or failure to exercise authority which could have prevented this off shoot of the main scam. He has not pleaded malafides on the part of NAB and on the face of the record there does not appear to be any hence his pre arrest bail is recalled.



65. Petitioners No.9 and 10 in CP D. 3791/2016 are Mst. Jannat Khatoon and Mst Jamalun (Accused No's 62 and 63 respectively in the reference) who at the time of the commission of the offense were pensioners.

66. Learned counsel for petitioners 9 and 10 submitted that they were both female pensioners who left it to the bank officials to pay in their monthly pension and operate their account in this respect. That in essence their accounts had been illegally used by the bank officials in transferring money and they were unaware of these transactions and had no knowledge that any transactions were being carried out illegally in their accounts.

67. The cases against both these petitioners is that they are alleged beneficiaries of the scam. Although their roles are similar to that of petitioner No.6 (their roles can be found at para's 65 and 66 of the reference which we do not intend to set out since it is largely the same as that of petitioner No.6's which was set out earlier in this order whilst dealing with his case) there is a pointed difference in their cases and that of petitioner No.6 Syed Sabul Shah (whose pre arrest bail we have recalled earlier in this order). The difference being that they are much less educated females. In both these cases it appears to us that petitioners 9 and 10 were relatively uneducated women (illiterate even) who placed their trust in the bank manager (petitioner No.1/accused No.1) in dealing with their pensions. It is clear that various transactions took place in their account in connection with monies which they were not entitled to. However, it appears to us that at this stage prima facie there is not sufficient material on record to show that they knew that their accounts were being unlawfully used or had any reason to believe so. For example, they made no big withdrawals in their name and according to NAB there has been no particular uplift in their living standards on account of the alleged

scam. It may therefore be that their accounts and themselves (being relatively uneducated and inexperienced in banking affairs) were simply unwittingly used as tools in order for the banking officials to carry out the alleged scam. In addition they are regularly attending the trial proceedings. As such at this stage we consider this to be a case of further enquiry and although malafides has not been specifically plead by the petitioners, in our view based on the facts and circumstances of the case of these two petitioners, it could be implied to the extent that the NAB failed to realize/consider/investigate to find out that these women were illiterate female pensioners who had no knowledge of banking and blindly placed their trust in the banking officials. Even otherwise we consider that in our discretionary constitutional jurisdiction and in the interests of justice under the above circumstances we do not consider that it would meet the ends of justice to recall the interim pre arrest bail granted to both these uneducated women petitioners and as such the pre arrest bail granted to petitioners 9 and 10 is hereby confirmed.

68. **Petitioner No.11 in CP D. 4336/16 is Mst. Shazia Parveen** (Accused No 26 in the reference) who at the time of the commission of the offense was a family pensioner.

69. Without going into detail we consider that she is in a very similar position to petitioners 9 and 10 above and has been ascribed a similar role in the reference at para 29 (namely as a beneficiary). She again is a lady of limited education who entrusted the bank officials to deal with her pension affairs who according to her even tore 3 leaves out of her pension book for their own use and misused her bank account without her authority by getting her to sign blank cheques which they later filled in as they pleased. She does not seem to have personally benefited from the

illegal transactions in her account and there does not seem to have been any uplift in her living standards since the inception of the crime. Hence we find her position to be similar to that of petitioners 9 and 10 and as such entitled to the same relief and as such her interim pre arrest bail is hereby confirmed.

70. **Petitioner No.12 in CP D. 3710/16 is Intiaz Ali Kalhoro (Accused No 27 in the reference) who at the time of the commission of the offense was a police officer who was drawing pension as guardian.**

71. Learned counsel submitted that the petitioner No.12 was completely innocent of any wrong doing and simply drew pension on behalf of his nephew who was his guardian and that his account had been misused by the bank officials.

72. The petitioner has been given a specific role in the commission of the crime at Para 27 of the reference which we do not intend to reproduce in the order but is similar to petitioner No.6 Syed Sabul Shah's role as being a beneficiary of the alleged scam whose case was discussed earlier in this order. He is a police officer holding a position of responsibility and was well acquainted with banking transactions. Despite allegedly collecting pension as a guardian he produced not a single piece of material to show that he was a legally appointed guardian or that he had any authority to receive payment for a guardian which was paid directly in his account. His account opening form shows that he is a teacher and not a police official and there are numerous cheques payable to himself bearing his signature and in his writing showing withdrawals of largish sums of money bearing in mind his salary. In addition there are also paying in slips for RS2.8 lacs, 4.2 lacs, 2.5 lacs, 1.72 lacs, 1.2 lacs, 2.1 lacs, 3.76 lacs the source of which has not been explained. Prima facie therefore we are of the view that there is sufficient material

on record to connect the petitioner to the alleged scam. The petitioner has not pled malafides and as such his pre arrest bail is hereby recalled.

73. **Petitioner No.13 in CP D. 4492/2016 is Mst Ajeeban** (Accused No 46 in the reference) who at the time of the commission of the offense was drawing pension.

74. Without going into detail we consider that she is in a very similar position to petitioners 9 and 10 above and has been ascribed a similar role in the reference at para 49 (namely as a beneficiary). She again is a lady of limited education who entrusted the bank officials to deal with her pension affairs who misused her bank account without her authority and knowledge by getting her to sign blank cheques which they later filled in as they pleased. She does not seem to have personally benefited from the illegal transactions in her account and there does not seem to have been any uplift in her living standards since the inception of the crime. Hence we find her position to be similar to that of petitioners 9 and 10 and as such entitled to the same relief and as such her interim pre arrest bail is hereby confirmed.

75. **Petitioner No.14 in CPD.348/2016 is Nizamuddin Solangi** (Accused No 3 in the reference) who at the time of the commission of the offense was the sub Accountant at the DAO.

76. Learned counsel for petitioner No.14 admitted that petitioner No.14 had been involved in the alleged scam but submitted that it was a case of complete malafides on the part of the NAB in that NAB had let off many persons who ought

to have been made accused and had operated on a discriminatory pick and choose basis and as such he was entitled to have his pre arrest bail confirmed.

77. Petitioner No.14 was the 2nd most senior officer in the DAO being sub accountant during the scam. His has been assigned a specific role at Para 6 of the reference which since he has admitted his involvement in the scam we do not see the need to set out in full which can be referred to in the reference if need be.

78. In any event, not with standing his admission of the offense, from the material placed on record by the NAB which we have perused it seems that the scam both started and ended with petitioner No.14. In our view the material on record shows that petitioner No.14 is one of the main accused in this case without whose role this scam would not have been possible. He was the person who initiated the list of the fake and part fake bills which were duly signed by him and given to accused No.10/petitioner No.7 (Ghulam Ashgar Rajper—the agent—whose is accused No.10 in the reference and whose interim pre arrest bail was recalled earlier in this order) to provide to accused No.1/petitioner No.1(Muhammad Arif Teevno whose pre arrest bail was recalled earlier in this order) being the NBP branch manager at Bhiria city who then made short credit entries and misused the accounts of a number of the beneficiary accused in the reference without their knowledge in collusion with accused No.9/Petitioner No.5 Ahmed Khan Solangi who was the cashier at NBP Bhiria city. Furthermore when the list of bills were returned to the DAO by the NBP main branch petitioner No.14 failed to ensure that the bills were reconciled and thus allowed the scam to go unnoticed and indeed flourish. He thus both misused and failed to exercise his authority. There appears to be an abundance of documentary evidence implicating



him in the offense. Furthermore numerous S.161 statements including those of Arbab Ali and Mujahid Tanwari fully implicate him in the offense.

79. With regard to his allegation of malafides it is for NAB after inquiry/investigation to determine who there is sufficient evidence against to make an accused. In our view some others who may have had a lesser involvement but against who there was most likely insufficient evidence have been made PW's who are necessary to prove the case against the accused in the reference and as such we find no substance in the petitioner No.14's plea of malafides.

80. Thus, since in our view there has been no malafides on the part of NAB and there is prima facie sufficient material to connect petitioner No.14 to the offense for which he has been charged we hereby recall petitioner No.14's interim pre arrest bail.

81. Having dealt with all the petitions seeking pre arrest bail we now turn to deal with those petitioners who have sought post arrest bail.

PETITIONS FOR POST ARREST BAIL.

82. **Petitioners No.15 and 16 in CPD.3441/2016 are Manthar Ali Bhanbhro and Wajid Ali Baber** (Accused No 15 and 16 respectively in the reference) who at the time of the commission of the offense were both OG III Officers working at the main branch of NBP Naushehro Feroz. Again this appears to be an offshoot of the main pensions case since it concerns two bank officials from the main branch illegally benefiting Mumtaz Solangi (Accused No.14) who is a driver in the

irrigation department who is also on post arrest bail in this case and whose case will be dealt with later in this order.

83. Learned counsel for petitioners 15 and 16 submitted that they simply cleared bills which they had received from the DOA which had come via the irrigation department in the name of Mumtaz Solangi (Accused No.14) and this was their role as per bank regulations and as such they had not committed any illegality.

84. In support of his contentions learned counsel placed reliance on **Dr.Allah Nawaz A.Qazi V State** (2008 SCMR 196), **Nadeem Majid V State** (2007 SCMR 1958) and **Muhammad Amin Quershi V State** (2007 P.Cr.L.J 105)

85. Petitioners No.15 and 16 have been ascribed a specific role in the reference at Para's 18 and 19 which state as under:

"18. That the investigation report reveals that accused No.15 / Manthar Ali Bhanbhro being Officer OG-III NBP Naushehro Feroze in connivance with accused No.2, 3 and 14 illegally cleared 2x credit advices / salary (issued in the name of another person) in favor of accused No.14 and Rs.5, 12,712/-9 Five Lac Twelve Thousand Seven Hundred and Twelve Only) was misappropriated by misusing his authority by rendering undue favor to accused No.14. Accused No.15 failed to exercise his authority to prevent the grant which could have been presented by exercise of his authority and involved in misappropriation and misuse of authority which resulted in loss to the national exchequer.

19. That the investigation report reveals that accused No.16 / Wajid Ali Babar being Officer OG-III NBP Naushehro Feroze / Clearing Officer of Government bills in connivance with accused No.2,3, 14 & 15 got received and cleared 4x D-sheets Form No.15 of Government bills of Rs.15,49,666/- (Fifteen Lac Forty Nine Thousand Six Hundred and Sixty Six only) and credited the same in the account of accused No.14 illegally (instead of the person in



the Government debit scrolls clearly points to their misuse of authority/failure to exercise authority. Thus, in our view there is prima facie sufficient material on record to link the petitioners 15 and 16 to the commission of the offense and as such their petitions for post arrest bail are hereby dismissed.

88. **Petitioner No.17 in CPD 3564/2016 is Mumtaz Ali Solangi** (accused No.14 in the reference) who at the time of the commission of the offense was a driver of Irrigation Department, XEN Moro, Rohri Division who was a non pensioner and was illegally extended undue benefit by petitioners 15 and 16 mentioned above (Manthar Ali Bhanbhro and Wajid Ali Baber).

89. Learned counsel for petitioner No.17 submitted that he was a driver for the irrigation department and had only opened one bank account with NBP in which his monthly salary of around RS23,000 was paid and that he had no other bank account. If he did have another bank account then this had been opened illegally by the XEN and was being used illegally without his knowledge. He submitted that he was completely innocent of any wrong doing and was not knowingly a part of any alleged scam. In support of his contentions he placed reliance on the cases of **Sarfraz Ahmed V The Chairman NAB** (2016 PCr.L.J P.79), **Chairman NAB V Muhammed Khalid** (2016 SCMR 676) and **Mirbaz Ali Faraz V The State** (2016 P.Cr.L.J 1431).

90. Petitioner No.17 has been given a specific role at para 17 of the reference which states as under:

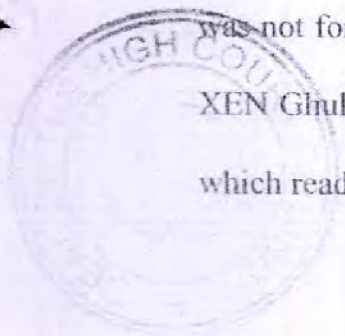
"Para 17. That the investigation report reveals that accused No.14 / Mumtaz Ali Solangi is a driver of Irrigation Department, XEN Moro, Rohri Division @ Moro is holding 2x salary accounts at NBP Moro Branch and HBL Moro and drawing huge amounts of salary as well as fake pension payees accounts only bill initiated by accused No.2 & 3 and got cleared through accused No.15 and 16 amounting to Rs.34,88,921/- (thirty Four Lac Eighty Eight Thousand Nine Hundred and Twenty One Only) for which he is not legally entitled



therefore; accused No.14 is involved in misappropriation of Government funds in connivance with accused No.2 & 3, 15 and 16 as abettor, facilitator and conspirator and also beneficiary of the above amount for which he was not legally entitled. Thus, accused No.14 is involved in corruption and corrupt practices and caused loss to the national exchequer."

91. His is a part of the off shoot case which ties in with **Petitioners No.15 and 16 in CPD.3441/2016 Manthar Ali Bhanbhro and Wajid Ali Baber** (Accused No 15 and 16 respectively in the reference as discussed above) who at the time of the commission of the offense were both OG III Officers working at the main branch of NBP Naushehro Feroz who were the officers who made illegal and authorized payments into petitioner No.17's accounts who case is discussed above.

92. In petitioner No.17's salary account there are 3 large payments of over one lac rupees mixed in with his salary payments. When confronted where this money came from he had no explanation. It was also revealed from the material on record that he also had another account in Habib Bank Ltd (HBL). The material on record totally belies his claim that this account was opened by the XEN without his knowledge. The account opening details show that the account has been opened by him using his documents and signatures. Large amounts have been paid into his personal HBL account which he had absolutely no explanation for. It seems that the authority to pay an illegal salary to him was forged most likely by him in connivance with petitioners No.15 and 16 and officers from the DAO since the concerned petitioners 15 and 16 being bankers would have known that the D Form was forged since they would have known that a TR 22 Form was required which was not forwarded to them but instead the fake "D" Form. The S.161 statement of XEN Ghulam Hussain Ujjan also fully implicates petitioner No.17 in the offense which reads as under:



"Statement of Ghulam Hussain Ujjan s/o Jan Mohammad Ujjan, Cell 0300-9319536 CNIC # 45303-4066067-3, Designation: Ex Executive Engineer, Irrigation Department Rohri Division, Moro R/o Ward # 2, Kandiaro Town Taluka Kandiaro - Investigation against Mr. Mohammad Arif Teevno, Ex: Branch Manager, Mohammad Ali Panhwar, Ex-District Accounts Officer, Naushehro Feroze, Mr. Nizamuddin Solangi Ex-Sub Accountant District Accounts Office, Naushehro Feroze, Ghulam Asghar Rajpar, Agent / Ex-PST, beneficiary account holders & others.

I, Ghulam Hussain Ujjan, Ex-Executive Engineer Rohri Division Moro appeared in NAB Office today and do hereby state that I was shown certain D-Sheets/Statements in which my fake signatures have been done and the amounts of Rs.4,29424/-, Rs.4,70,088/-, Rs.4,36,122/- and Rs.76590/- has been credited as the salary amount in the account of driver namely Mumtaz Ali Solangi.

I, further state that the above D-Statements does not bear any date or any purpose that why the amount is being sanctioned for driver, but it is pertinent to point out that on one D-Statement, has been signed the District Accounts Officer, Naushehro Feroze himself which for all practical purposes, he is not legally authorized to sign on D-statement. The record confronted to me shows that D-Statement has been managed and loss to national exchequer has been caused through the fraudulent practice. As per practice of the department we issue bills along with D-Sheet to the District Accounts Office & the District Account Office use to prepare cheques in favour of the XEN being DDO use to issue the cheque in favour of concerned person. The entire amount credited in lacs of rupees in account of Mumtaz Ali Solangi by National Bank of Pakistan, District Naushehro Feroze is illegal and I, have no concern with those amounts."

93. Thus we are of the view that prima facie there is sufficient material to connect petitioner No.17 to the offense with which he is charged and as such his petition for post arrest bail is dismissed.

94. **Petitioner No.18 in CPD.3673/2016 is Syed Sadat Shah (Accused No.6 in the reference)** who at the time of the commission of the offense was a data processing assistant in the office of the DAO. As mentioned earlier this is an off shoot case concerning the opening of the account of two ghost teachers which has already been discussed earlier in this order in the case of **Petitioner No.8 in CP D. 3495/2016 Abdullah Nagore (Accused No.7 in the reference)** who at the time of

the commission of the offense was Data processing assistant DAO Naushehro Feroze a part of which discussion is reproduced as under for ease of reference.

“In many ways this is an off shoot of the main case as it concerns the illegal opening of salary accounts and the illegal payment of salaries to 2 ghost teachers (Mst .Murk accused No.50 and Sajjid Ali accused No.54 both of whom have absconded) which is a part of the case concerning his boss (Syed Saadat Shah accused No.6 in the reference) who is on post arrest bail and whose case is dealt with later in this order”.

95. According to learned counsel for petitioner No.18 his case is not connected to the main pension's case and as such should not be a part of the reference. His case concerns the creation of two ghost teachers (Ms Murk accused No.50 and Mr Sajjid Ali accused No.54 in the reference) and whom allegedly he paid salaries to. The case of petitioner No.18 is that in a nut shell he was not responsible for putting the teachers on the pay role since he was simply following the instructions passed down to him by his supervisor Mr. Kamil Morio which was to pay the salaries of the teachers. It was the job of Kamil Morio and not himself to check whether the teachers existed. He in effect was simply a data entry officer with no responsibility whatsoever and was completely innocent of any wrong doing. In effect he placed the blame on Mr.Kamil Morio just as petitioner No.8 had earlier placed the blame on him. In support of his contentions learned counsel placed reliance on **Najma Swaleh Syed V The State** (2008 YLR Kar 1087), **Muhammed Hanif V NAB** (PLD 2007 Kar 429), **Muhammed Zarat Khan V Federation of Pakistan** (PLD 2007 Kar 597) and **Lahore High Court Lahore through Registrar V Mina Muhammed Younis** (2000 SCMR 1068).

96. Petitioner No.18 has been assigned a specific role in the reference at para 9 which reads as under:

"Para 9. That the investigation report reveals that Accused No.6 / Syed Sadat Shah, during his incumbency as Data Processing Assistant, District Accounts Office, Naushehro Feroze, in connivance with accused No.2 & 7 has created fake IDs of accused No.50 & 54 without any advice or FO-1 form from Education Department District Naushehro Feroze, therefore, the accused No.6 hired the teachers in the SAP system illegally, unlawfully, by violating all codal formalities as the appointments were not owned by Education Department, therefore, creation of ID's by the accused resulted in loss to the exchequer as illegal salaries as well as fake pension bills had been drawn by the accused No.50 & 54 which could have been prevented by exercise of his lawful authority and undue benefit has been rendered by the accused by not following the Rules, regulations and set procedures as laid down and caused loss to the exchequer."

97. It is apparent from the record that petitioner No.18 (like petitioner No.8 whose pre arrest bail was recalled earlier in this order) was not simply a data inputter. He had his own personal pass code which he used to create the names of the teachers on the data system. Hence he had a role in creating their posts and paying their salaries. The education department through the S.161 statement of Nisar Ahmed Memon who is the district education officer has confirmed that both teachers were fake employees and did not exist on the records of the education department. The material on record shows that petitioner No.18 opened from his own personal password the account of ghost teacher Sajjid Ali (who is accused No.54 in the reference) and that he failed to check the FO I Form in respect of one of the teachers which check would have shown that the teachers were fake. The signature of the DAO on the FO 1 form is fake and the form itself is fake and there is no material to suggest that it was not generated by petitioner No.18 especially since he failed to check it. Petitioner No.18 also failed to comply with the policies and guidelines laid down by the office of the DAO for hiring employees as indicated by the Accountant General of Sindh's letter dated 23-05-2016 addressed

to Mr. Muhammad Rizwan Deputy Director NAB and the DAO's own office order dated 30-05-2011 concerning his relevant role and duties in terms of payroll correction and hiring. This failure to exercise and misuse of authority on the part of petitioner No.18 lead to loss to the exchequer in terms of paying salaries to fake ghost employees. Mr Kamil Morio who petitioner No.17 has blamed for the whole incident has turned approver and his statement has fully implicated petitioner No.17 in the alleged scam especially as it is corroborated by the above material i.e. his personal access code, his failure to check that the teachers actually existed with the education department, his failure to follow office policy and office orders. For ease of reference the S.161 statement of Kamil Morio is set out below:

"STATEMENT U/S 161 CR.P.C OF MR. MOHAMMAD KAMIL MORIO S/O MOHAMMAD UMER MORIO, SUB ACCOUNTANT, DISTRICT ACCOUNTS OFFICER, NAUSHEHRO FEROZE R/O VILLAGE RAHIB Khan MORIO TALUKA & DISTRICT NAUSHEHRO FEROZE CNIC # 45304-7386057-3.

I do hereby state that today I appeared before Mr. Masood Ahmed, SIO NAB Sukkur and state that I am serving as a Sub Accountant, District Accounts Officer, Naushehro Feroze. I submit that the computer generated report along with FO-I form was shown to me pertaining to the hiring of 2x PST teachers and Syed Sadat Shah has alleged that I have handed over him the FO-I forms of the 2x teachers namely Ms Murkh and Sajid Ali who have been punched and hired in the SAP system District Account Office District Naushehro Feroze. **I state that the FO-I forms does not show my signatures but computer generated reports submitted by Syed Sadad Shah with his statement shows that the 2x above teachers have been hired by him in the SAP System and their salaries were released by Abdullah Nagore another Data Processing Officer and they are responsible for the hiring ghost teachers. The computer generated report also shows that ID's Syed Sadat Shah and Abdullah Nagore has been used. (bold added)"**

98. Thus we are prima facie of the view that petitioner 8 and 18 colluded and connived with each other and the concerned beneficiaries in order to illegally open the accounts of the two ghost teachers (accused No.50 and 54) and regularly illegally paid salaries to them which was withdrawn by the ghost teachers and as

such due to their misuse of authority and failure to exercise authority have caused a loss to the national exchequer and given illegal benefit to accused No.50 and 54 both of whom have absconded.

99. Thus, prima facie we are of the view that there is sufficient material on record to connect petitioner No.18 to the offense with which he is charged and as such his petition for post arrest bail is dismissed.

100. **Petitioner No.19 in CPD.3623/2016 is Mashooq Ali Memon** (Accused No.19 in the reference) who at the time of the commission of the offense was a Sub-Accountant, District Accounts Office District Naushehro Feroze posted in payment head section .

101. Learned counsel for petitioner No.19 submitted his role as a sub accountant was confined to receiving the list of bills back from the main branch and there after to fulfill two functions. Firstly to bifurcate the bills according to department e.g. education, health etc and thereafter secondly to enter the data into a computer. He played no role in checking the bills which according to him was the role of Nizamuddin Solangi (accused No.3 in the reference whose pre arrest bail was recalled earlier in this order).In essence he placed the blame on Nizamuddin Solangi. In support of his contentions he placed reliance on the S.161 statements of Ghulam Shabbir, Ghulam Rajpur, Mujahid Ali Tanwari and Munawar Aziz. He submitted that he was innocent of any wrong doing and as such he was entitled to be enlarged on post arrest bail. In support of his contentions he placed reliance on the cases of **Sardar Amin Farooqui V. The Chairman NAB**, (2014 P.Cr.L.J 186), **Abdul Hadi Siddiqui V. National Accountability Bureau** (2015 P.Cr.L.J 185), **Muhammad Shoaib Wasti V. National Accountability Bureau** (2009 YLR 155), **Humera Shakeel V. The State** (2008 P.Cr.L.J 701), **Abdul Aziz**

Khan Niazi V. The State (PLD 2003 SC 668) and **Zulfiqar Ali Abbasi V. The State** (2008 YLR 2229).

102. The petitioner No.19 has been assigned a specific role in the reference at Para 22 which states as under:

"Para 22. That the investigation report reveals that accused No.19 / Mashooq Ali Memon, Sub-Accountant, District Accounts Office District Naushehro Feroze was posted in payment head section of DAO Naushehro Feroze and in connivance with accused No.1 to 5, 8, 10, 13, 17, 18, 20 to 63 was involved in misuse of authority and misappropriation of government funds as accused No.19 willfully, intentionally, unlawfully failed to exercise his authority by not lawfully tallying / verifying the Accounts of District Accounts Office Naushehro Feroze with the bank scrolls of NBP Naushehro Feroze main branch and did not object on illegal payments by bank officials which he could have prevented by the exercising of his authority by lawfully reconciling accounts. Therefore, accused No.19 is involved in misuse of authority and misappropriation of funds which caused loss to the national exchequer".

103. From the material placed before us it appears that petitioner No.19 performed a similar role in the DAO as Petitioner No.3 Imtiaz Ali Sahito who he worked along side with in the office of the DAO. In our view he, like Petitioner No.3 Imtiaz Ali Sahito, had the role of reconciling the bills and by misusing his authority and failing to exercise this authority he caused huge loss to the national exchequer. In our view the same reason for denying petitioner No.3 pre arrest bail (bar the question of malafides and any absence from the office during the relevant time.) are fully applicable in his case. **Namely** the S.161 statement of Dhani Bux Khan Jahejo a sub accountant who gave the precise procedure which the petitioner was required to undertake and even the rules which petitioner No.3 **Imtiaz Ali Sahito** himself relied upon (Combined set of Treasury Rules Vol I and II) which specifically provide for physical reconciliation of the accounts. Petitioner No.19 had worked in the DAO's office for around 3 years and would have been fully aware of his responsibilities and the relevant rules and procedures which related to

his position/job function. In fact it would appear that in the absence of petitioner No.3 Imtiaz Ali Sahito for a short period on leave petitioner No.3 was working alongside Mr. Nizamuddin Solangi accused No.3 in the reference who he is trying to place the blame on. Even two reconciliation sheets which have been placed before us show that petitioner No.19 who was a grade 14 officer has signed the same as DAO which he had no legal authority to sign since neither was he ever a DAO nor was he a grade 18 officer which is the relevant grade for a DAO. The petitioner has therefore illegally signed these forms with out any authority what so ever and is an endorsement of a reconciliation of accounts which was never made in respect of the beneficiaries who were illegally paid.

104. In our view based on the material placed on record petitioner No.19, accused No.3 Nizamuddin Solangi and petitioner No.3 Imtiaz Ali Sahito were prima facie all working in collusion and connivance with each other in the DOA's office in order to give effect to the alleged scam. If only one of them would have exercised their authority or not misused their authority then the whole scam could not have taken place and a huge loss to the exchequer could have been prevented.

105. In our view based on the above discussion there is prima facie sufficient material to connect petitioner No.19 to the offense for which he is charged and as such his petition for post arrest bail is dismissed.

106. **Petitioner No.20 in CP.D 4107/2016 is Muhammad Karim** (Accused No.36 in the reference) who at the time of the commission of the offense was drawing pension illegally as guardian.

107. Learned counsel for petitioner No.20 submitted that his uncle had died in Government service who had a 5 year old daughter and he was drawing pension

on her behalf. According to learned counsel he was receiving a pension of approximately R8 to 9,000 per month on her behalf and that he was an illiterate person who had no idea that the bank manager of Bhiria Branch (petitioner No.1/accused No.1 Muhammed Arif Teevno) had been illegally using his bank account without either his permission or knowledge and he was completely unaware of any transactions which may have been taking place in his account. Essentially he passed the blame on to petitioner No.1/accused No.1 Muhammed Arif Teevno.

108. Petitioner No.20 has been assigned a specific role in the reference at Para 39 which states as under:

"Para 39. That the investigation report reveals that accused No. 36/ Muhammad Karim was drawing pension illegally as guardian, illegal "payees account only" bills were credited in his account in connivance with Accused No.1 to 4, 8, 9, 10 & 19, 16x fake/dummy pension credit advice / invoice of fake/dummy pensioners and non-pensioners were credited to the tune of Rs.42,05,079/- (Forty Two Lac Five Thousand and Seventy Nine Rupees Only) in his A/c No.7887 of NBP Bhiria City Branch Naushehro Feroze for which he was not legally entitled and investigation report further revealed that additional amounts of more fake pension invoices / payees account bills were issued in his name for Rs.3,39,582/- (Three Lac Thirty Nine Thousand Five Hundred Eighty Two Rupees Only) which were illegally credited in his above mentioned account. Therefore, accused No.36 is involved in misappropriation of Govt. Funds as beneficiary account holder, abettor and facilitator in connivance with other above mentioned accused persons to the tune of Rs.45,44,661/- (Forty Five Lac Forty Four Thousand Six Hundred Sixty One Rupees Only) which caused loss to the national exchequer."

109. The record reveals that petitioner No.20 was not totally illiterate rather that he was educated to intermediate level. There was no material on record to show that legally he had been appointed guardian of any child. Even otherwise it is strange that in our society the guardianship was not given to the brother of the deceased uncle who is living as opposed to petitioner No.20. His bank statement shows that amounts of RS one lac and above have been regularly passing through

his account from 18-06-2014 to 18-06-2015 (a one year period) and that the petitioner appears to be unaware of such transactions. In our view this is difficult to believe and tends to show that he was in league with petitioner No.1/accused No.1 Muhammed Arif Teevno and was fully aware of the alleged scam rather than being unwittingly used. He certainly had no legal right to collect any pension. Copies of some cheques on record are in his hand writing and bear his signature and are payable to self which further shows that petitioner No.20 was operating his account and he was aware of the alleged scam especially as these cheques in his own hand writing are for amounts well beyond the level of pension which he was being paid. Other small scale withdrawals also show that he was operating the account. As such we do not accept the contention that he was unaware of the alleged scam and was not a part of it.

110. In our view based on the above discussion there is prima facie sufficient material on record to connect petitioner No.20 to the offense for which he is charged and as such his petition for post arrest bail is dismissed.

111. **Petitioner No.21 in CP. D 4105/2016 is Sajjad Hussain** (Accused No.40 in the reference) who at the time of the commission of the offense was a non pensioner drawing pension illegally.

112. Learned counsel for petitioner No.21 submitted that petitioner No.21's father had died whose pension passed to his mother who later died and thereafter the pension passed to him and as such he was receiving pension payments. He submitted that petitioner No.21 was an illiterate person who had no idea that the bank manager of NBP Bhiria Branch petitioner No.1/accused No.1 Muhammed Arif Teevno had been illegally using his bank account without either his permission or knowledge and he was completely unaware of any transactions which may have been taking place in his account. Essentially, like petitioner

No.20, he passed the blame on to petitioner No.1/accused No.1 Muhammed Arif Teevno.

113. Petitioner No.21 has been assigned a specific role in the reference at Para 43 which states as under:

"Para 43 That the investigation report reveals that accused No.40/Sajjad Hussain was a non-pensioner, drawing pension illegally "payees account only" bills in his account in connivance with Accused No.1 to 4, 8,9, 10 & 19, 08x fake/dummy pension credit advice / invoice of fake/dummy pensioners and non-pensioners were credited to the tune of Rs.18,14,834/- (Eighteen Lacs Fourteen Thousand Eight Hundred and Thirty Four Rupees only) in his A/c No. 8270 of NBP Bhiria City Branch Naushehro Feroze for which he was not legally entitled and investigation report further revealed that additional amounts of more fake pension invoices / payees account bills were issued in his name for Rs.13,46,213/- (Thirteen Lac Forty Six Thousand Two Hundred and Thirteen Rupees only) which were illegally credited in his above mentioned account. Therefore accused No.10 is involved in misappropriation of Govt. Funds as beneficiary account holder, abettor and facilitator in connivance with other above mentioned accused persons to the tune of Rs.31,31,047/- (thirty One Lacs Sixty One Thousand and forty Seven Rupees only) which caused loss to the national exchequer."

114. Once again petitioner No.21's contention that he is illiterate is belied by his own account opening form which shows him as an intermediate. On confrontation learned counsel for the petitioner No.21 conceded that petitioner No.21 was receiving a pension illegally as he was a 22 year old man and he had no right to receive any pension. As with petitioner No.20 large amounts well beyond his pension amount was passing through his account for over a year yet he did not raise any alarm. He continued to use the account. Indeed cheques, on record, as in the case of petitioner No.20, have been written in his own hand writing and signed by him and payable to himself for sums well beyond the level of his pension. Other small amounts were also regularly withdrawn from his account and with all the indications that he was hand in glove with petitioner No.1/accused No.1 Muhammed Arif Teevno.

115. As such we are of the view that he stands on the same footing as petitioner No.20 and in our view there is sufficient material on record to prima facie connect him with the offense for which he is charged and as such his petition for post arrest bail is dismissed.

In summary.

116. The orders for ad interim pre arrest bail granted to the following petitioners are hereby recalled with immediate effect:

1. **Muhammad Arif Teevno** (Accused No.1 in the reference)
2. **Ms Hameeda Khanum** (Accused No.11 in the reference)
3. **Imtiaz Ali Sahito** (Accused No.4 in the reference)
4. **Khan Muhammad Pirzada** (Accused No.5 in the reference)
5. **Ahmed Khan Solangi** (Accused No.9 in the reference)
6. **Syed Sabul Shah** (Accused No.21 in the reference)
7. **Ghulam Asghar Rajper** (Accused No.10 in the reference)
8. **Abdullah Nagore** (Accused No.7 in the reference)
9. **Imtiaz Ali Kalhoro** (Accused No 27 in the reference)
10. **Nizamuddin Solangi** (Accused No 3 in the reference)

117. The orders for ad interim pre arrest bail granted to the following petitioners are hereby confirmed subject to each of the petitioners furnishing solvent surety in the sum of Rs 100,000 and PR bond in the like amount to the satisfaction of the Additional Registrar of this Court in addition to any surety already furnished by them. It is made clear that notwithstanding the proceedings in the reference since these petitioners appear to be genuine pensioners they may continue to receive their pensions and no bar or restriction shall be put in their way in this respect.

1. Mst. Jannat Khafoori (Accused No.62 in the reference)
2. Mst. Jamal Khan (Accused No 63 in the reference)
3. Mst. Shazia Parveen (Accused No 26 in the reference)
4. Mst. Ajeeban (Accused No 46 in the reference)

118. The petitions for post arrest bail moved by the following petitioners are hereby dismissed:

1. Manthar Ali Bhanbhro (Accused No 15 in the reference)
2. Wajid Ali Baber (Accused No.16 in the reference)
3. Mumtaz Ali Solangi (accused No.14 in the reference)
4. Syed Sadat Shah (Accused No.6 in the reference)
5. Mashooq Ali Memon (Accused No.19 in the reference)
6. Muhammad Karim (Accused No.36 in the reference)
7. Sajjad Hussain (Accused No.40 in the reference)

119. The Accountability Court proceeding with this reference is directed to decide the same within a period of six months from the date of this order a copy of which shall be immediately transmitted by the office to the concerned Accountability Court.

120. Before parting with this order we have observed with some concern that in a number of NAB cases in Sukkur (including this reference) there are more than 20 accused. Although it is in NAB's discretion as to how many accused it places in a reference based on the evidence before it in our view NAB seriously needs to consider whether putting so many accused in one reference will lead to an expeditious disposal of the case in favour of the Prosecution. For example, in the reference in the instant case there are 63 accused each of whom may have their own counsel which may entail 63 separate cross examinations of each prosecution

witness by 63 different counsel for the accused. Delays are also likely to be caused due to the absence of counsel, absence of accused, the charge having to be reframed every time an absconder surrenders before the accountability court (in this case there appear to be over 20 absconders) which may lead to extremely prolonged trials and use up large amounts of NAB's resources which seems to be against the letter and spirit of the NAO as per its preamble and S.16(a) which aimed to guarantee speedy trials especially bearing in mind that no statutory bail is available in NAB cases and only the ground of hardship can be used as a ground for delay in completing the trial. In this respect we direct the office to forward a copy of the last 2 pages of this order to the Chairman NAB and DG NAB Sukkur for their consideration.

Sd/-
MO HAMMAD KARIM KHAN AGHA,
JUDGE.

Sd/-
MAHMOOD A. KHAN,
JUDGE.

SUKKUR
Dated: 07-03-2017

CERTIFIED TO BE TRUE COPY

TYPED BY

COMPARED BY

READ BY

ASSISTANT REGISTRAR.

07/3/17