

IN THE HIGH COURT OF SINDH, KARACHI

Before:-

Mr Justice Naimatullah Phulpoto

Mr. Justice Mohammed Karim Khan Agha

Constitution Petition No. and name of petitioner along with counsel.

C.P. No.D-2469 of 2017 Anjum Jameel Siddiqui V. NAB through its Charman & another
Anjum Jameel Siddiqui S/o Jamil ur Rehman.
Through Mr. Riaz Ahmed Phulpotot, Advocate.

Counsel for the Respondents.

Mr. Muhammad Altaf, Special Prosecutor, NAB.

Dates of Hearing: 06-11-2017

Date of Order: 06-11-2017

ORDER

Mohammed Karim Khan Agha, J. Through this petition, the petitioner Anjum Jameel Siddiqui seeks post arrest bail in Reference No 49/2015 which is proceeding before Accountability Court II at Karachi.

2. Brief facts of the case are that the petitioner is nominated accused in Accountability Reference No.49/2015 relating to land grabbing /china cutting in Karachi. Subsequently, Chairman NAB constituted a Joint Investigation Team consisting of officers from NAB, FIA and Sindh Rangers to jointly inquire into the case. After conclusion of inquiry by JIT, inquiry was converted into investigation. During the course of investigation it was established that the 13 plots bearing Nos. B-149/1 to B-149/13, Block-1, Gulistan-e-Jauhar, Scheme No.36, Karachi; each measuring 299 sq. yards were illegally created and

constructed upon on land reserved for water conduit of KW&SB and High Tension Line of K-Electric by the officials of KDA in connivance with the officials of Master Plan Department (MPD), KW&SB and SBCA. Record files of these plots located in "University Hill Villas" indicated that all these 13 plots were illegally and fraudulently allotted under the garb of exchange/alternate basis, i.e. the allottees of these plots had shown/claimed properties in Korangi Township which could not be allotted to them due to double allotment. Therefore they were compensated through allotment of plots at Gulistan-e-Jauhar through fraudulent means. However, it is noted that all the actual allottees of Korangi Township had given General Power of Attorneys (GPAs) of their respective properties to other persons who had further transferred these properties. None of the original allottees appeared before KDA during the allotment process, nor were their whereabouts found out during the investigation. It is further stated in the said Reference that during the course of inquiry, it has been revealed that the petitioner / accused was the principal purchaser of these 13 plots. Despite knowing about the cancellation of allotments, he purchased these plots and sold them further to other persons. It is also stated in the said Reference that during the investigation the evidence collected in terms of statements of witnesses and documents have revealed that the petitioner and other co-accused persons are responsible for causing loss to government exchequer of Rs.500,000,000/- by creating plots on government land and selling them to general public and have committed the offence

of corruption and corrupt practices as defined under section 9(a) of the National Accountability Ordinance 1999 and punishable under section 10 of the aforesaid Ordinance and schedule thereto.

3. At the outset learned counsel for the petitioner submitted that he was only pressing this bail application on the grounds of hardship and the rule of consistency whereby co-accused Mumtazul Haq, Rashid Aqeel, Mohammed Nasir Shaikh and Faisal Masroor Siddiqui had already been granted post arrest bail by order of this court dated 14-04-2017 on the grounds of hardship and as such the petitioner was entitled to similar treatment and as such he should be admitted to post arrest bail.

4. Under these circumstances the learned senior prosecutor for the National Accountability Bureau (NAB) very fairly did not oppose the grant of post arrest bail to the petitioner.

5. We have considered the submissions of the parties, reviewed the dairy sheets and the bail granting order dated 14-04-2017 to 4 other co-accused as referred to above which significantly was not appealed by NAB and has attained finality.

6. It would seem that out of 7 accused being tried in the aforesaid reference two died whilst in custody and 4 have been granted post arrest bail by this court leaving the petitioner as the only accused in the reference still in custody

7. The petitioner was arrested on 26-11-2015 and as such he has been in continuous custody for almost two years. The dairy sheets produced before us show that very little delay has been caused on the part of the petitioner. It is also observed that the co-accused were granted bail on hardship grounds by this court after serving a little over one year in jail whereas the petitioner has been behind the bars for almost two years. It also appears that the role of the petitioner is on similar footing to some of the other co-accused who have been granted bail on account of hardship. In addition the petitioner has also spent much longer in jail than his co-accused. Importantly out of 66 PW's only one witness has been examined to date so realistically the completion of the trial is no where in sight in the near future This is especially apparent since the grant of bail to the other co-accused on 17-04-2017 very little progress has been made in the trial. The petitioner also has the right to an expeditious trial which does not seem to be happening in this case through no fault of his own and as such he should not be left to rot behind bars for years on end. Thus, based on the rule of consistency the petitioner in our view has made out a case for release on post arrest bail on the grounds of hardship.

8. These are the reasons for our short order dated 06-11-2017 which reads as under:

"After hearing the learned counsel for the parties and for the reasons to be recorded later-on, petitioner Anjum Jameel Siddiqui son of Jamil-ur-Rehman Siddiqui is granted post arrest bail on hardship ground, in the sum of Rs 2 Million and P R. Bond in the amount to the satisfaction of Nazir of this Court Petitioner shall also deposit original passport with the Nazir of this Court,

his name shall also be placed on E.C.L. The learned trial court shall complete the trial expeditiously. A copy of this order shall be sent to Secretary, Ministry of Interior by FAX for compliance."