

Name Removed From No Fly List  
Not for reporting

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**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

**C.P No.D-2140 of 2020**

Date	Order with Signature of Judge
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PRIORITY

1. For hearing of Misc. 10418/2020
2. For orders on Misc. No.10158/2020
3. For Hearing of Misc. No.10159/2020
4. For hearing of main case

**23.04.2020.**

M/s. Mohammad Rehman Ghous and Raghieb Ibrahim  
Junejo, Advocates for the Petitioner  
Mr. Mukesh Kumar Khatri, Assistant Attorney General.  
Mr. Awais Alam, Law Officer, along with Director FIA (Sindh)  
Munir Shaikh, Additional Director FIA Mumtaz ul Hasan and  
Sanaullah, E.O. FIA.

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Petitioner Muhammad Faisal Samana is a dual national of Pakistan and United State of America. He permanently lives and works in America and had come to Pakistan for business purposes. Whilst he was in Pakistan FIA received a complaint dated 15.02.2020 that the petitioner failed to disclose two properties owned by him in U.A.E. On account of this complaint the FIA placed the petitioner's name on No Fly List pursuant to Provisional National Identification List (PNIL)- an interim 30-days Stop-List For fugitives pursuant to letter issued by the office of the Additional Director, FIA Immigration Wing, Islamabad.

2. Learned counsel for the petitioner states that the petitioner needs to travel back to USA to attend his family affairs and in particular one member of his family who is seriously unwell. He has also drawn to our attention the fact that because of the current global situation there is only special flight available which will leave tomorrow for USA for which the petitioner had made great efforts in order to obtain ticket as now a days there are from very few flights leaving to the USA and the object of these flights is primarily to

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evacuate the citizen of the USA who had travelled to Pakistan. Petitioner, who is also present before the Court, states that he purchased these two properties which are the subject matter of the complaint which the FIA is investigating whilst he was working in UAE and that he has not committed any offence, whatsoever.

3. Learned DPG accompanied with Mr. Munir Shaikh, Director FIA has stated that since the petitioner is a dual national he has serious apprehension that if he is allowed to leave the country he will not return and as such their inquiry would be defeated and as such he should remain on the no fly list.

4. We have heard the parties and perused the record.

5. A brief review of the file reveals that the complaint was made against the petitioner on 15.02.2020 to the Director, FIA. This lead to the FIA placing the name of the petitioner on the No Fly List on 21.02.2020 pursuant to the Provisional National Identification List (PNIL)- an interim 30-days Stop-List For fugitives.

6. When we are confronted the Director, FIA he conceded that the petitioner had not been called to explain his position and that the FIA had not gathered any material to show that he had committed any illegality.

7. We also observed that Provisional National Identification List (PNIL)- an interim 30-days Stop-List For fugitives which was the basis for the petitioner's name being put on the No Fly List only enables the FIA to put such a name on No Fly List for 30 days. In paragraph-2 of the aforesaid Provisional National Identification List (PNIL)- an interim 30-days Stop-List For fugitives, it appears to have envisaged that within this 30 day period the FIA could also make an application for placing the name of the petitioner on ECL. We suspect that such a move might be made by the FIA if they had gathered some material to suggest that the person under inquiry had



committed an offence and he needed to be detained in Pakistan in order to complete their inquiry. It is clear from the record that more than two months has now passed since name of the petitioner was placed on Provisional National Identification List (PNIL)- an interim 30-days Stop-List For fugitives, as such in our view his name would automatically ceased to be on that list since 30 days has now expired especially since no application has been made by the FIA to the re-new such period.

8. When learned Assistant Attorney General was confronted, he also conceded that the petitioner's name is not on the ECL. We are aware that petitioner is a dual national so that if leaves the country there is a danger that he may not return, however, he has candidly stated before this Court that he has committed no offence and seeks one time permission to travel to USA and he will return within 03 months in order to cooperate with the FIA and clear his position. Clearly we need to strike a balance between the right of the individual to travel along with right of the FIA to investigate an offence. However, based on legal position as set out in the Provisional National Identification List (PNIL)- an interim 30-days Stop-List For fugitives and the failure of the FIA to place the petitioners' name on ECL it appears that the FIA have very little legal basis to keep the petitioner on the No Fly List. In our view this tilts the balance in favour of the petitioner especially as current global situation makes it very difficult to travel back to see<sup>7</sup> family members in any other country who in this case are unwell.

9. Keeping in view the undertaking of the petitioner to return and cooperate with FIA in their inquiry we hereby order that the petitioner's name be removed from No Fly List pursuant to Provisional National Identification List (PNIL)- an interim 30-days Stop-List For fugitives with immediate effect and also from the ECL, if his name is on the ECL and that he may be allowed to travel to the USA for a period of 03 months from today until **23<sup>rd</sup> July, 2020** subject to furnishing

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solvent surety in the sum of **Rs.20,00,000/- (Rupees Twenty Lac)** with P.R. bond in the like amount to the satisfaction of Nazir of this Court.

10. A copy of this order shall be sent by the office through facsimile to the Secretary, Ministry of Interior, Government of Pakistan, Islamabad immediately for compliance.

11. The petition stands disposed of along with all listed applications in the above terms.

MAK/PS\*\*