

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Muhammad Iqbal Kalhoro.
Mr. Justice Mohammad Karim Khan Agha

C.P. No.D-8393 of 2019.

Petitioner: Ghulam Nabi Keerio S/o. Nehal Khan,
through Mr. Mian Ali Ashfaq, Advocate.

Respondent/State: NAB through Mr. Muhammad Akram Javed,
Special Prosecutor NAB along with Mr. Asif
Raza, I.O.

Date of short order: 21.09.2020.

Date of reasons : 21.09.2020.

ORDER

Mohammad Karim Khan Agha, J.- By this order we propose to dispose of the above mentioned petition filed on behalf of petitioner Ghulam Nabi Keerio S/o. Nehal Khan for post arrest bail in National Accountability Bureau (NAB) Reference No.11 of 2017 **State v. Ghulam Haider Jamali & others** who is alleged to be involved in corruption and corrupt practices falling within the purview of S.9 of the National Accountability Ordinance, 1999 (NAO). This court had already recalled the petitioner's pre-arrest bail vide order dated 11.05.2018 where after the petitioner was taken into custody and is now facing trial before the accountability court at Karachi.

2. The brief facts of the case are that the petitioner who at the time of the offense was serving as SP in the Sindh police misused/failed to exercise his authority to ensure that ineligible persons were recruited as police officers and thereby was responsible for 100's of illegal appointments in the Sindh police which lead to a loss of millions of Rupees to the National Exchequer.

3. Learned counsel for the petitioner contended that the petitioner had already spent about 29 months in custody and that no delay had been caused on his part or the part of his counsel in the conclusion of the trial which was still some way off its conclusion; that the trial court had failed to comply with directions of this court to complete the trial within a given period of time and that the main accused in the case former IGP Ghulam Haider Jamali had not spent a single day in jail despite his pre arrest bail being recalled by this court over 2 years ago and thus based on the particular and peculiar facts and circumstances of this case the petitioner was entitled to the same relief as the main accused Ghulam Haider Jamali in that he should at least be granted post arrest bail so that he could instruct his defense counsel easily.

4. We have gone through the record and found that the pre arrest bail of the main accused Ghulam Haider Jamali was recalled by this court vide order dated 11.05.2018 where upon the main accused sneaked out of the court and avoided his arrest at the hands of the NAB IO's whilst nearly all the other co-accused whose pre arrest bail was recalled were arrested by NAB and taken into custody. Despite the NAB being aware of the main accused's pre arrest bail being recalled by this court he some how evaded the arrest of the NAB and made his way to Islamabad where he was granted ad interim bail by the Hon'ble Supreme Court.

5. Despite this court recalling the main accused's pre arrest bail which NAB had vehemently opposed before this court which finding meant that there had been no malafide on the part of the NAB and there was prima facie sufficient evidence to connect him to the offense when the case came up before the Supreme Court vide order dated 19.06.19, being more that a year after his pre arrest bail was recalled, the NAB under instructions from the PGA and the Chairman NAB informed the Supreme Court that in effect the NAB had no intention of arresting Ghulam Haider Jamali and as such his petition for pre arrest bail was disposed of as infructious and as such the main accused was allowed his freedom whilst the other less responsible co-accused were arrested a number of whom have been rotting in jail for the last 29 months.

6. When special prosecutor NAB and IO were confronted with the above scenario and the reason behind it they had no explanation.

7. We find this conduct of the NAB as totally inexplicable and gives the perception that the main accused and more influential accused was being given more favorable treatment at the bail stage with regard to the lower level and less influential accused which prima facie is a violation of Articles 4 and 25 of the Constitution. In fact we have never seen such a scenario in a NAB case before. Namely where the pre arrest bail of the main accused is recalled whilst the other co-accused are taken into custody and after the absconding main accused makes his escape good from the court room NAB does not oppose his bail before the Supreme Court but rather is happy to allow the main accused to remain free whilst the co-accused having played a lesser role in the offense are arrested and allowed to rot in jail (in the petitioners case for 29 months).

8. Thus, under these particular facts and circumstances and indeed peculiar and rather extraordinary circumstances we find the petitioner Ghulam Nabi Keerio entitled ^{to} post-arrest bail subject to furnishing solvent surety in the amount of Rs.20,00,000/- (Rupees twenty lac only) and PR Bond in the like amount to the satisfaction of the Nazir of this Court.

9. The name of petitioner Ghulam Nabi Keerio son of Nihal Khan shall be placed immediately on the ECL. A copy of this order shall be sent by fax to Secretary, Ministry of Interior, Government of Pakistan for compliance.

10. These are the reasons for our short order dated 21.09.2020 which reads as under:-

"We have heard learned counsel for the petitioner Mr. Mian Ashfaq Ali, Advocate. We have also heard learned Special Prosecutor for NAB assisted by IO Asif Raza.

For the reasons to be recorded later the petitioner is granted post-arrest bail subject to furnishing solvent surety in the amount of Rs.20,00,000/- (Rupees twenty lac only) and PR Bond in the like amount to the satisfaction of the Nazir of this Court. The name of petitioner Ghulam Nabi Keerio son of Nihal Khan shall be placed immediately on the ECL. A

*copy of this order shall be sent by Fax to Secretary,
Ministry of Interior, Government of Pakistan for
compliance.*

Arif