

IN THE HIGH COURT OF SINDH, CIRCUIT COURT
HYDERABAD

PRESENT:

Mr. Justice Miran Muhammad Shah
Mr. Justice Dr. Syed Fiaz ul Hassan Shah.

Criminal Bail Application No.D-54 of 2025

Applicant: Farooq Ali Domki through Mr. Farooq H. Naek, Advocate.

Respondents: Moazam Ali Shaikh, Special Prosecutor NAB along with Waqar Anwar, Deputy Director NAB

And

Criminal Bail Application No.D- 59 of 2025

Applicant: Syed Bhooral Shah through Mr. Muhammad Ali Kolachi, Advocate.

Respondents: Moazam Ali Sheikh, Special Prosecutor NAB along with Waqar Anwar, IO/Deputy Director NAB.

And

Criminal Bail Application No.D- 38 of 2025

Applicant: Ali Khan Tunio through Mr.Ayaz Hussain Tunio, Advocate.

Respondents: Moazam Ali Shaikh, Special Prosecutor NAB along with Waqar Anwar, Deputy Director NAB

And

Criminal Bail Application No.D-40 of 2025

Applicant: **Imran Shaikh** through Mr. Mir Haq Nawaz Talpu, Advocate.

Respondents: Moazam Ali Shaikh, Special Prosecutor NAB along with Waqar Anwar, Deputy Director NAB

And

Criminal Bail Application No.D-46 of 2025

Applicant: **Abdul Malik Bullo** through Mr. Farooq H. Naek, Advocate.

Respondents: Moazam Ali Shaikh, Special Prosecutor NAB along with Waqar Anwar, Deputy Director NAB

And

Criminal Bail Application No.D-34 of 2025

Applicant: **Inayatullah Channa** through Mr. Zameer Ahmed Ghumro, Advocate.

Respondents: Moazam Ali Shaikh, Special Prosecutor NAB along with Waqar Anwar, Deputy Director NAB

And

Criminal Bail Application No.D- 33 of 2025

Applicant: **Ataullah Channa** through Mr. Zameer Ahmed Ghumro, Advocate.

Respondents: Moazam Ali Shaikh, Special Prosecutor NAB along with Waqar Anwar, Deputy Director NAB

And

Criminal Bail Application No.D-31 of 2025

Applicant: Wajid Ali Channa through Mr. Zameer Ahmed Ghumro, Advocate.

Respondents: Moazam Ali Shaikh, Special Prosecutor NAB along with Waqar Anwar, Deputy Director NAB

Date of hearing: 15.05.2025

Date of decision: __.06.2025

ORDER

Dr. Syed Fiaz Ul Hassan Shah, J.- The Applicants have refused to grant concession of post-arrest bails by the learned Accountability Court-I Hyderabad in NAB Reference No.2 of 2021 (*The State V. Munawar Ali Bozdar and others*) for the offences allegedly committed under sections 9 of the National Accountability Ordinance 1999 (NAB Ordinance) and sections 3 & 4 of the Anti-Money Laundering Act 2010 (AMLA) through impugned Orders dated 08.02.2025, 22.02.205, 07.03.2025,13.03.2025, 24.03.2025,

2. The background of the case is that FIR No.G-0-01/2020 dated 03.03.2020 was registered at P.S Thatta Anti-Corruption Establishment Sindh, against misappropriation and embezzlement of funds allegedly committed by the officers of the Right Bank Out Fall Drain (RBOD-II), Irrigation Department Government of Sindh and its contractors under the garb of flood fighting/emergent works. Thereafter, application under section 16-A of the NAB Ordinance was filed before the learned Special Judge Anti-Corruption (Provincial) Hyderabad and vide order dated

15.01.2021, the matter was transferred to the Accountability Court Sindh at Hyderabad. NAB's Investigation, in the form of Investigation Report, culminated into filing of Reference No.2 of 2021.

3. The FIR No. 01 of 2020 was registered following an inquiry into Complaint No. G-0-84/2019 by the Anti-Corruption Establishment (ACE), Jamshoro, with approval from the competent authority. The case concerns alleged corruption in the project "Extension of Right Bank Outfall Drain (RBOD) from Sehwan to Sea, covering Dadu and Thatta districts." The inquiry revealed that during financial years 2017-2018 and 2019, officers/officials of RBOD-II Division-III Thatta, in collusion with contractors/companies, prepared fake bills and liabilities under the pretext of flood emergency works and fraudulently withdrew **Rs. 3,527,374,695.** A technical inspection found no such work had been executed at SITE, and flood data from 2014–2019 confirmed that there had been no floods during that period of 2017- to 2019. It was also discovered that Imran Sheikh, then Superintending Engineer, had awarded unauthorized work packages in 2014–2015 without approval of the second revised PC-I, which was later approved on 29-11-2016. Consequently, public funds were misused. An interim challan was submitted to the Special Judge Anti-Corruption (Provincial), Hyderabad. The case was later transferred to NAB Court under Section 16A(a) of NAO, 1999. After further investigation, NAB filed a supplementary reference on 08-07-2023, identifying Munawar Ali Bozdar (Project Director RBOD-II) as being primarily responsible for disbursing the funds. He is accused of releasing Rs. 3.52 billion through illegal and

bogus payments under the guise of flood emergency works. The accused have been charged under Sections 9(a)(i), (iii), (iv), (vi), (xi), and (xii) of the National Accountability Ordinance (NAO), 1999 and Section 3 of the Anti-Money Laundering Act (AMLA), 2010, punishable under Section 4 of the same.

4. The brief facts are enumerated in the NAB Reference No.03 of 2021 as well as in the investigation report and hence do not need to be reproduced again. We have heard the learned counsel for the Applicants in the listed Bail Applications and the learned Special Prosecutors appearing on behalf of NAB who has assisted by the Investigation Officer of the case. The record in the case is voluminous.

5. Having heard the arguments and perused the relevant statutory provisions, judicial precedents, and legal submissions and record including the investigation report.

Question-I Statutory jurisdiction (Cr.P.C or Writ)

6. Afterwards, the rule handed down in “***Asfand Wali Khan v. the State***”, (PLD 2001 SC 607), the **Supreme Court and High Courts** handled bail cases under **constitutional jurisdiction**, applying **Section 497 Cr.P.C** principles. In “***Abdul Aziz Khan Niazi vs. The State***” (PLD 2003 SC 668), the Court affirmed judicial principles and due process in bail decisions on the analogy of procedural law and its provision of Section 497 Cr. P.C despite the bar placed by **Section 9(b) NAO**. It was held that:

“7. the refusal of bail by the High Court in its constitutional jurisdiction merely for the reason that the concept of discretion for grant of bail under Article 199 of the Constitution of Islamic Republic of

Pakistan, 1973 is different to that of under section 497/498 Cr.P.C is not proper. The discretion of High Court under the Constitution and under ordinary law in bail matter is based almost on same principle.

Line supplied

7. Pre-Amendment interpretation of Section 9(b): Pre-amendment, Section 9(b) expressly barred any court, including the High Court, from exercising Cr. PC powers unless the NAB Ordinance allowed.

“All offences under this Order shall be non-bailable and notwithstanding anything contained in sections *(426, 491), 497, 498 and 561-A or any other provision of the Code or any other law for the time being in force no Court, including High Court shall have jurisdiction to grant bail to any person accused of any offence under this Order.”

(*Inserted by Ordinance IV/2000 dated 3.2.2000).

8. Post-amendment interpretation of Section 9(b): Pursuant to the judgment in **Khan Asfandyar Wali’s** case (Supra), **Ordinance No. XXXV of 2001**, dated **10.08.2001** (**Federal Statute**), introduced a significant amendment to **Section 9(b) of NAO, 1999**. The amendment **omitted** the words **“including High Court”** after **“no Court”**, the reference to High Court was deliberately removed from Section 9(b) thereby modifying the provision to read as follows:

“All offences under the Order shall be non-bailable and notwithstanding anything contained in sections 426,491, 497, 498 and 561A or any other provision of the Code or any other law for the time being in force no Court shall have**

jurisdiction to grant bail to any person accused of any offence under this Order.”

(**Including High Court” omitted)

9. The removal or omission of the term **‘High Court’** from the text of Section 9(b) of the National Accountability Ordinance, 1999, and the use of the generic term **‘Court’** thereafter, reinforces the presumption that the High Court has been intentionally excluded from the operation of the ouster. Accordingly, the **supervisory and inherent jurisdiction** of the High Court remains intact and unimpaired, and continues to be exercisable in appropriate cases where no alternate remedy exists or where intervention is necessary to prevent miscarriage of justice.

10. To reconcile Section 9(b) with constitutional safeguards, the **doctrine of severability** is a rule from Constitutional law to strike down only the unconstitutional or inconsistent part of a statute while preserving the valid portions, provided the valid portion can function independently. Although, it’s secondary in this case as the Courts are reluctant to strike down legislation if a reading down can achieve constitutionality but reference would provide certainty by applying its test too. In the present context, even if the broader ouster language in Section 9(b) is upheld, the omission of the High Court implies that any bar cannot be severed to apply to it without offending legislative intent. Courts possess the authority to judicial review to **sever** the illegal provision of a statute or unconstitutional provisions that excessively restrict procedural rights while preserving the remainder of the statute. If a post-amendment version of **Section**

9(b) selectively or arbitrarily bars procedural rights—such as bail or sentence suspension—courts may invalidate the relevant provision while ensuring the broader objectives of the NAO remain intact. Doctrine of Severability allows the isolation of unconstitutional parts of legislation without invalidating the whole. Reliance can be placed on the cases reported as “**Benazir Bhutto v. Federation of Pakistan**”, (PLD 1988 SC 416), “**Mian Muhammad Nawaz Sharif v. State**”, (PLD 2009 SC 814) & “**M.D. Khandelwal v. Union of India**”, (PLD 1998 Lahore 181).

11. The **doctrine of reading down** is a cardinal principle of constitutional interpretation. Courts often read down provisions that would otherwise render a statute unconstitutional and is best suited when the goal is to preserve the statute but limit its scope. If a literal reading of a provision would violate fundamental rights or lead to an absurdly patchwork regime, the court narrows its scope (“reads it down”) rather than striking the whole thing. Here, even if Section 9(b) were to be interpreted broadly, it must be read down to exclude the High Court from its ambit so as to preserve the constitutionality of the statute and ensure continued access to justice. Pakistan’s superior courts have frequently used this doctrine when dealing with ouster clauses or overbroad legislation, especially in criminal law and preventive detention statutes. For instance, Courts read down ouster clauses in preventive detention laws to allow habeas corpus jurisdiction under Article 199 of the Constitution of Pakistan, 1973. Therefore, this Court can interpret 9(b) narrowly, so it does not exclude Cr.P.C provisions Sections 426, 439, or 561-A. It allows judicial harmony between the NAO and the Constitution without declaring

9(b) ultra vires. Doctrine of Reading Down permits courts to interpret statutes narrowly to preserve their constitutionality. Reliance can be placed on the case ***“Federation of Pakistan v. Durrani Ceramics”*, (2014 SCMR 1630)**.

12. Precariously, the subjective requirement of ouster clause section 9(b) viz ***“non-bailable offence”*** has eventually been amended through Amendment Act 2022, the objective purpose of ouster provision has become objectiveless and redundant.

2 [Subject to the provisions contained in sections 439, 496, 497, 498 and 498A of the Code, no court other than the Court established under this Ordinance shall have powers to grant bail or order release of the accused.]

*substituted vide National Accountability (Amendment) Act, 2022 dated 22.06.2022.

13. We are mindful that the High Court vest its judicial authority not from **procedural statute** but from the **Constitution** itself, under Article 175. It retains jurisdiction under Articles 199 and 203, and inherent powers under Sections 426, 439, and 561-A Cr. P.C. Article 175(2) of the Constitution of Pakistan, 1973 demands that:

“No court shall have any jurisdiction save as is or may be conferred on it by the Constitution or by or under any law.”

14. Article 175(2) provides that no court shall have any jurisdiction except as conferred by the Constitution or by law. However, this limitation must be read in harmony with the entrenched status of superior courts, whose supervisory and constitutional powers under Articles 184(3), 199, and 203 are

not derived from statutes but from the Constitution itself. The provisions of Sections 561-A and 439 recognize the High Court's inherent powers in criminal matters—not granted by statute but it has acknowledged. Therefore, on both perspective, the filing of criminal application under section 497 Cr.P.C. is now maintainable rather a constitution petition.

15. Hence, Section 561-A serves merely as statutory acknowledgment of a power already embedded in the constitutional structure. Therefore, in the presence of statutory remedy by way of Appeal, Revision or Proceeding under inherent jurisdiction conferred by Section 561-A Cr.P.C, the Supreme Court of Pakistan does not incline to entertain Constitution jurisdiction. Reliance can be placed in *“Dr Sher Afgan Khan Niazi v. Ali S. Habib and others”, (2011 SCMR 1813)* while approving earlier principle settled in *“Nawazul Haq Chowhan v. State”, (2003 SCMR 1597)*. **Section 561-A Cr.P.C** recognizes the High Court's inherent powers in criminal matters—not granted by statute but it has acknowledged.

16. Therefore, we hold that criminal bail applications under **Section 497 and 498 of the Code of Criminal Procedure (Cr.P.C.)** are maintainable before this Court. Furthermore, we affirm that the **High Court**, under its inherent jurisdiction, has the authority to adjudicate bail applications and issue appropriate orders, including reviewing decisions made by the **National Accountability Court** in a pending reference. Additionally, applying the same jurisprudential legal principle, this Court holds jurisdiction to entertain applications under **Section 426 Cr.P.C.** in

pending appeals or revisions under the NAO, ensuring due process and judicial oversight in such matters.

QUESTION-II: APPLICABILITY OF TWO PROVISION OF SAME STATUTE

17. This Court proceeds to determine the scope and interplay between Section 4(d) and Section 9 of the National Accountability Ordinance, 1999 (NAO).

“Determination of Scope and Applicability of Sections 4(d) and 9 of the National Accountability Ordinance, 1999 (NAO) — Procedural Lapses and Criminal Liability”

i. General principles of interpretation:

When two provisions of the same statute appear to be in conflict, one provision grants exemption or protection, and another fixes liability, the court will determine Scope and intent of each provision as to whether the provisions can coexist by limiting one to non-criminal matters and the other to fraudulent/criminal acts by applying rule of harmonious construction. This means; "the statute must be read as a whole, and effect must be given to all provisions so that none is rendered redundant, contradictory, or meaningless. Both provisions are presumed to have meaning and purpose."

ii. Contextual Framework of NAO

18. The **National Accountability Ordinance, 1999 (NAO)**, though a **special law**, defines a range of offences such as **corruption, criminal breach of trust, misappropriation, and dishonest conversion** — terms that either originate from or are

judicially defined under the **Pakistan Penal Code, 1860 (PPC)**.

The NAO does not always provide **comprehensive definitions**, and where its language parallels offences under PPC (e.g., “misappropriation”, “fraudulently”, “dishonestly”), courts are justified in importing established definitions and interpretative standards from the PPC and related jurisprudence.

iii. Legislative & Jurisprudential Basis

19. Section 9 NAO – "Corruption and Corrupt Practices"

includes acts such as dishonest or fraudulent misappropriation, conversion of property, and abuse of position.

These terms align closely with:

- **Section 403 PPC** – Dishonest misappropriation of property
- **Section 405 PPC** – Criminal breach of trust
- **Section 24 & 25 PPC** – Definitions of “dishonestly” and “fraudulently”
- **Section 415 PPC** – Cheating to deceive or retain property or harm.

iv. Aim and Framework for Understanding

20. The **NAO** borrows heavily from the PPC in substance and structure. Where the NAO uses terms borrowed directly or substantially from the PPC in substance and structure. Therefore, the interpretation of offences under **NAO** must draw from the definitions, principles, and case law developed under the PPC. Courts must interpret them consistently with the meanings settled under PPC jurisprudence. This approach ensures uniformity, legal certainty, and compliance with constitutional guarantees of a fair trial. Reliance is placed on Supreme Court of Pakistan cases. In “**State v. Zafar Abbas**”,

(**2015 SCMR 736**) the Supreme Court affirmed that “dishonesty” must be interpreted per Section 24 PPC when applied under NAO. In “**Muhammad Riaz v. The State**”, (**2019 SCMR 728**) held that “Criminal intent” under NAO construed using PPC's interpretative framework. In “**State v. Misbah-ud-Din**”, (**PLD 2021 SC 409**) held that mens rea under NAO cannot be presumed; must be proven in accordance with principles derived from the PPC.

v. Legal Principles Applied

21. Doctrine of Harmonious Construction—Under the rule of harmonious construction, Section 4(d) and Section 9(iii) of NAO: do not conflict, but rather address different categories of conduct. The Procedural lapses (without corrupt intent) are exempt under Section 4(d) while the Dishonest or fraudulent acts fall under criminal liability in Section 9(iii). Courts will interpret these together to protect honest officials while still punishing corruption. Sections 4(d) and 9 must be interpreted together to maintain the integrity and purpose of the NAO. Section 4(d) does not negate Section 9.

22. Doctrine of No Redundancy—Each provision must be given full effect. Section 4(d) cannot be interpreted to undermine the substantive offence provisions under Section 9.

23. Specific Over General (Generalia Specialibus Non Derogant)—Section 9, being specific in nature regarding corrupt practices, prevails over the general procedural protection of Section 4(d) when corruption is established.

24. Purposive Interpretation—the interpretation must align with the legislative object of the NAO, which is to root out

corruption. Thus, Section 4(d) cannot be used to shield criminal intent or benefit.

vi. Judicial Precedents support for Harmonious Construction:

25. In **“Federation of Pakistan v. S.A. Mazhar”**, (PLD 1970 SC 1) held "Where two parts of a statute appear to be in conflict, an interpretation should be adopted that gives effect to both."

26. In **“Fauji Foundation v. Shamimur Rehman”**, (1993 SCMR 1287) held "Statutes must be construed as a whole and provisions harmonized if possible."

27. In **“Haji Muhammad Nawaz v. State”**, (2009 SCMR 407) held "Where immunity or protection is granted, courts must carefully ensure it is not misused to shield fraud or corruption."

Indian Jurisdiction:

28. In **“State of Jharkhand v. Govind Singh, (2004) 10 SCC 505]** held when the words of a statute are clear, plain, and unambiguous, then the courts must give effect to them without speculating into legislative intent."

29. In **“Workmen of American Express v. Management”**, [(1985) 4 SCC 71] held that the courts must adopt a **beneficial interpretation** that furthers the purpose of social welfare legislation.

30. Further reliance can be placed on judicial precedents held by Supreme Court of Pakistan in **“Asfandyar Wali Khan (supra); “Chairman NAB v. Shabbir Ahmed”, (2022 SCMR 1360); “State v. Misbah-ud-Din”, (PLD 2021 SC 409);** and Supreme Court of India in **“State of Maharashtra v. Som Nath Thapa”, [AIR 1996 SC 1744 (India)].**

QUESTION-III: INTERPRETATION AND IMPLEMENTATION NAO SECTIONS 4 & 9

31. The core purpose of the National Accountability Ordinance (NAO), 1999 — which is to eradicate corruption and corrupt practices in the public and private sectors. While procedural lapses may offer a shield under the amended **Section 4(d)** while critically gauging and observing persecution by the NAB investigators in various cases, however, this defence becomes legally untenable in the face of criminal intent (mens rea) or dishonest conduct under **Section 9** of the NAO. The preamble and object of NAO clearly state that:

“The Ordinance is intended to provide for the recovery of misappropriated assets, prosecution of persons involved in corruption, and to bring transparency and accountability in governance.”

32. Hence, prevention, investigation, and punishment of corruption are its central objectives. Section 4(d) is not meant to nullify Section 9. Rather, it protects only procedural irregularities that occur without dishonest intent. Guidance can also be taken from the Supreme Court of India cases. **“R.S. Nayak v. A.R. Antulay, AIR 1984 SC 684); “Shah Faesal v. Union of India”, [(2020) 4 SCC 1].** Therefore, its provisions must be interpreted to promote **transparency, accountability, and deterrence** against misuse of public office. Reliance be placed on the following dictums of Honorable Supreme Court of Pakistan and Indian:

- i. **“Asfandyar Wali Khan (Supra);** the Supreme Court clarified that genuine procedural errors are not punishable under NAO, but dishonest misuse of authority or willful loss to the public exchequer is actionable. Without element of criminality NAB has no jurisdiction.
- ii. In **“Chairman NAB v. Shabbir Ahmed”, (2022 SCMR 1360);** the Supreme Court ruled that intentional misuse of authority for personal benefit cannot be termed a “procedural lapse” and falls within the ambit of **Section 9 NAO**.
- iii. In **“Khalid Aziz v. NAB”, (2019 SCMR 1254),** the Supreme Court held **Mens rea** is a vital component. Without proving **dishonest intent**, a prosecution under NAO cannot sustain. However, once such intent is established, procedural defences collapse.

Indian Parallel –

- iv. In **“State of Maharashtra v. Som Nath Thapa”, (AIR 1996 SC 1744),** the Supreme Court of India held that "Mens rea is an essential ingredient of criminal offences involving dishonesty or fraud. Where such intent is proven, no procedural defect can wash away criminality."
- v. In **“State of Maharashtra v. Som Nath Thapa”, [AIR 1996 SC 1744 / (1996) 4 SCC 659]** the Supreme Court of India held that **Mens rea** is essential in corruption cases; mere suspicion or technical lapses are insufficient. However, when dishonest intent is clear, prosecution is justified.

- vi. In “***C.K. Damodaran Nair v. Government of India***”, (AIR 1997 SC 1612), it was held by Supreme Court of India that the misuse of position for obtaining pecuniary advantage, even indirectly, constitutes an offence under the Prevention of Corruption Act — **irrespective of procedural regularity.**

33. In view of the above rules of interpretation and judicial precedents, we observe that **Section 4(d)** offers immunity in cases where there is no evidence of personal benefit or dishonest intent. The protection under **Section 4(d)** is not absolute but conditional, and ceases to apply where evidence is produced demonstrating that the accused has derived a personal or monetary benefit from the procedural lapse directly or indirectly for his or her own use for others. **Section 9**, on the other hand, defines the acts that constitute corruption and corrupt practices, including fraudulent conduct, dishonest misappropriation, and abuse of authority for unlawful gain. Where the prosecution establishes mens rea and the receipt of undue benefit, the offence is prosecutable under Section 9 of the NAO. The definitions and interpretative guidance drawn from the Pakistan Penal Code shall apply in construing criminal intent and culpability. Where the Court finds that mens rea, i.e., criminal intent or knowledge, once established by the prosecution, it definitely supersedes any protection under Section 4(d), if it is shown that the public office holder or on their behalf received a benefit they were not entitled to— whether monetary or material — such conduct falls squarely under Section 9 of the NAO. Accordingly, any defense predicated solely on procedural lapses shall not prevail where the

prosecution successfully proves the existence of criminal intent and illicit gain and in the failure of such criminal intent NAB has no jurisdiction being ousted by the provision of Section 4 of the NAO.

34. In response to the legal argument presented, and in light of established principles and justified interpretations, we classify the applicability of safeguard or immunity under **Section 4 (d) of the NAO** as follows:

- a. Applicants **eligible** for safeguard or immunity – Those who are found guilty of procedural lapses **without criminal intent** may avail the benefit of bail.
- b. Applicants **ineligible** for safeguard or immunity – Those who are found guilty **with criminal intent** cannot seek protection under **Section 4(d)** at this bail stage.

35. Accordingly, the refusal or grant of such safeguard or immunity shall be determined based on these classifications. Order accordingly.

36. Now moving on towards the bail applications. We have based our observations on what was argued before us and the pieces of evidence shown to us from the voluminous record.

Cr Bail Application No.D-54 of 2025 (Farooq Ali Domki)

37. The applicant seeks his post arrest bail in NAB reference number 02 of 2021. Initially, the Anti-Corruption synth registered three FIRs bearing FIR NO.4/2021, FIR No.5/2021, registered with PS ACE, Jamshoro while another FIR No.1/2021 registered at PS Thatta for the commission of offences on account of misappropriation and embezzlement of funds sanction and entrusted for Lower Indus Right Bank Irrigation & Drainage

Project (RBOD-II). Subsequently. The said cases were transferred to NAB in terms of section 16 A of NAO.

38. Mr. Naek, learned Counsel for the Applicant has argued that the applicant is a registered contractor and he has done his duty honestly and diligently and it is not his job to follow the requirement of Federal Government or any authority to personally check any head of account or requirement of audit as it is the requirement binding public officials and not to the Applicant. He further states that the award of contract is a **contractual obligations** govern under the Contract Act, 1872 and the applicant is /was bound to fulfill the contractual terms and conditions and has nothing to do with the in-house issues of the Project Director or any of Engineer or even any requirement of the documents except that the applicant had entered into the contract for certain development works. He finally stated that the applicant has performed his contractual obligations against which the amount has been released in favor of the applicant.

39. The relevant investigation, for the purpose of deciding this bail application, is related to **RBOD-II, Division-III, Thatta** and according to the respondent NAB, the said amount and funds were entrusted to Project Director on account of the State project. However, the accused in connivance and incollusion with the official accused have siphoned off such amount under the garb of flood damages and emergent work when such head of account was not available for the project and furthermore, no services was rendered at site on ground and in fraudulent manners huge amount of public Exchequers was released in favor of the applicant.

40. The respondent NAB strongly opposed the bail application on the ground that the applicant was not entitled to receive such huge amount of public exchequers as no services or development work has carried out by the applicant and Accused in collusion with the official accused have embezzled the public funds after preparation of fake and bogus bills for the release of such amount in favor of the applicant.

41. In light of the principles set down by the Supreme Court that in NAB Bail's matters—though prior to amended NAO, 2022—that it is for the NAB prosecution to show the court that **reasonable grounds** exist to refuse bail or to not grant the concession of bail in favor of the applicant accused.

42. The expressions '**reasonable grounds for believing**' and '**reasonable suspicion**' are distinct in their legal interpretation. The august Supreme Court has thoroughly examined these terms and observed:

- a. In "***Moulvi Fazlul-Qader Choudhury v. Crown (PLD 1952 Federal Court 19)***" that while a person's conduct may give rise to a degree of suspicion, the term "**believe**" carries a much stronger connotation. Moreover, for a belief to hold legal weight, it must meet the threshold of reasonableness.
- b. In "***Ch. Abdul Malik v. The State [PLD 1968 SC 3491]***"; the Supreme Court of Pakistan held that "Reasonable grounds" is an expression which connotes that the grounds be such as would appeal to a reasonable man for connecting the accused with the crime with which he is charged, "grounds" being a word of higher import than "**suspicion**". However, strong a suspicion may be it would not take the place of reasonable grounds. Grounds will have to be tested

by reason for their acceptance or o rejection. The reasonableness of the grounds has to be shown by the prosecution by displaying its cards to the Court, as it may possess or is expecting to possess as demonstrating evidence available in the case both direct and circumstantial."

- c. In "***Chaudhry Shujat Husain v. The State***" (1995 **SCMR 1249**); the Supreme Court of Pakistan held "The term "reason to believe" can be classified at a higher pedestal than mere suspicion and allegation but not equivalent to prove evidence. Even the strongest suspicion cannot transform in "reason to believe."

43. Therefore, we would prefer to record the structural framework of investigation and legal analogy of the prosecution (NAB) case while handing off our hands from deeper appreciation. In "***Mohammad Iqbal Khan Nori vs. NAB***", (Civil Petitions **No.3637 & 3638 of 2019**), the three Member bench of Hon'ble Supreme Court has ruled that it is the obligation of the Prosecution (NAB) to demonstrate from the **record or investigation** that **reasonable grounds** are existing against the Applicant and it is **not the duty of the Applicant** to present the case that reasonable grounds exist to enlarge him or her on the concession of bail. The relevant paragraph is re-produced hereunder:

"7. In order to ascertain whether "reasonable grounds" exist or not, the Court should not probe into the merit of the case, but restrict itself to the material placed before it by the prosecution (NAB) to see whether some tangible material/evidence is available against the accused which may lead to the inference of his

guilt. Mere accusation of an offence would not be sufficient to disentitle an accused from being bailed out. There should be “reasonable grounds” as distinguished from mere allegations or suspicion. It is for the prosecution (NAB) to show reasonable grounds to believe that the accused has committed the crime. If the Court is not satisfied that there exist reasonable grounds to believe that the accused is guilty, the Court is to grant bail in enforcement of the aforesaid fundamental rights.”

Line supplied

44. The controversy revolves around three important points as has mainly emphasized by the Prosecution (NAB). The following are the main controversial point and on these reasons, the Prosecution (NAB) claims that **reasonable grounds** exist that the present bail applications must be dismissed.

- a. **No sanctioned Head of Account (for Emergency Work) to release fund on account of emergency work was ever approved by the competent authority and**
- b. **PC-1 is in violation SPRA Rules, 2010 and**
- c. **no development work has been carried out at site (RBOD-II, Division-III at Thatta).**

45. According to the prosecution (NAB), a significant amount of public funds had released under a fictitious and self-claimed **Emergency head of account** for flood damage-related works. This is deemed an established fraud and modus operandi to siphoned of public money while ruining the RBOD Project. The prosecution (NAB) argues that, prima facie, the accused, including the applicant and official respondents, are involved in

offenses warranting legal action. Therefore, they contend that the accused are not entitled to post-arrest bail.

46. In response, Mr. Naek has directed attention to paragraph (e) and (f) of the **Investigation Report** available on page 55 of the case file, together with presenting a copy of the approval from ECNEC (highest Committee of Federal Government for mega project) vide Letter No.1(311)2016-AC dated 9th August 2017 during rebuttal against the arguments of the learned Special Prosecutor. This document explicitly confirms that an **emergency head of account** was established under the PC-I Project by the federal government. Notably, NAB has not refuted the authenticity of this document before us.

47. Further examination of NAB's Investigation Report, particularly Paragraph 17(e) and (f), reveals an admission by NAB itself that ECNEC and the Federal Government had approved the PC-I framework. Subsequently, the project underwent revision with an increased budget, and the Ministry of Water and Power conveyed this approval accordingly. The relevant portion is reproduced:

“(e) The PC-1 for the project was approved at a cost of rupees 14 billion in 2001, which was then revised to rupees 29.217 billion in 2005.

(f) The Executive Committee of National Economic Council (ECNEC) in its meeting date. 10th July, 2017 approved. Approved the second revision in the pc 1 to an amount of rupees. 16.985 billion. In this regard, the Ministry of Water and Power, Government of Pakistan conveyed the administrative approval to the Secretary, vide its letter dated 9th August, 2017.”

48. Based on the facts presented, it has been established, for our tentative assessment only for deciding these bails applications, that the PC-I was not only approved by ECNEC, Government of Pakistan, and the Ministry of Water and Power, but also included a designated **head of account** for emergency work or Emergent Services. The letter of approval produced by Mr. Farooq Naek during his arguments, confirmed that the ECNEC (highest body of Federal Government for final approval of Mega Projects of Development and infrastructures). The letter dated 14.7.2017 has also confirmed that permission for execution of works during the floor 2017 (emergency) was allowed by the Project Director.

49. Given the existence of this head of account for emergency services, the allegation of violating SPRA rules does not hold, as the Statute itself allows relaxation of rules for emergency work. This is supported by a conjoined reading of Sections 2(g) and 2(r), in conjunction with Section 16, Subsection (b) of the relevant Act. The same is re-produced for the convenience:

“2-(g): “Bidding Documents” means all documents provided to the interested bidders to facilitate them in preparation of their bids in uniform manner;

2-(r): “Emergency” means natural calamities, disasters, accidents, war and breakdown of operational equipment, plant, machinery or engineering infrastructures, which may give rise to abnormal situation requiring prompt and

immediate action to limit or avoid damage to person(s), property or the environment;

S.16- “Alternate Methods of Procurements (1) A procuring agency may utilize following alternative methods of procurement of goods, services and works, namely:

(a).....

(b) Direct Contracting – This method means procurement from a single source without competition and shall only be applicable under any of the following conditions:

- i. standardization of equipment or spare parts, to be compatible with the existing equipment, provided that the competent authority certifies in writing the compatibility of the equipment or spare part(s) to be procured;
- ii. the required item(s) is of proprietary nature and obtainable only from one source, provided that the Head of the Department certifies in writing the proprietary nature of the item(s) to be procured;
- iii. the contractor responsible for a process design requires the purchase of critical items from a particular supplier as a condition of a performance guarantee;”

50. Furthermore, from the records presented, a document letter No. CDM-XII/P-IV/416 dated 14.07.2017 confirms that the concerned official formally declared a state of emergency due to Flood 2017 at the relevant time due to massive flood damages across the Province of Sindh.

51. In our tentative views, the aforementioned two key points of controversy or allegations relied upon by Respondent NAB, basing their case of “**reasonable grounds**” have not been

sufficiently established by the NAB Prosecution before us for the purpose to refuse post-arrest bail application of the Applicant (Farooq Ali Domki and Imran Shaikh).

52. Examining the third key point raised by the prosecution (NAB) to believe the **reasonable grounds** regarding the refusal of post-arrest bail to the applicant, we have carefully analyzed the reports submitted by the Respondent (NAB) concerning the technical assessment of development work at the project site. The report was prepared during the investigation and states that no development work had been carried out at all, while Mr. Farooq Naek has drawn our attention to an alternative technical report primarily prepared by the **ACE, Sindh** during its criminal investigation. Notably, both reports appear **inconsistent and contradictory**. The former asserts that no work was executed on-site, a stance supported by both the Investigation Officer and Special Prosecutor. In contrast, Mr. Naek vigorously argued that the latter report presents the truth, confirming that development work was indeed carried out and after 08-year case is framed without legal basis.

53. We further reinforce by an essential aspect of the investigation that has been entirely ignored—or deliberately left unexamined—for reasons best known to NAB and its investigation team. Specifically, the point of commencement of projects and fund allocations originates from the Planning Commission of Pakistan. This crucial detail of investigation underscores the need for a **comprehensive monitoring, financial disbursements, and oversight mechanisms** would have had to exercise by the Planning Commission (Ministry of Planning) the **RBOD (I, II & III)**

projects on both the Lower and Upper River Indus, so also by the **Ministry of Water & Power**, as their officers had subsequently placed for final approval before **ECNEC**. Additionally, it is noted that the funds for this project were transferred from the **Federal Government**.

54. Clearly, the matter is intertwined with established checks and balances and audits and we cannot believe that it cannot be overlooked or unnoticed in a manner that reflects naivety or desperation and even a mind of prudent man cannot accept it or that such facts of fact related to the commission of offences that the Federal or Sindh Government officers have deliberately abandon or omit such huge project of public policy which is otherwise statutory duties and a case of breach of duty by those, adhered to entrustment as obligatory duty.

55. If we believe the story of prosecution that no work at site had been carried out and huge public amount has siphoned off, we are lost to draw an adverse inference in the absence of record indicating that Monitoring Officers within the **Planning Commission, Ministry of Water & Power, Irrigation department Sindh** have formally informed to the **Chief Secretary, Govt. of Sindh or Chief Minister** or his Inspection team or the **Chairman Planning Commission** to ensure that a **factual report** was presented to ECNEC to halt funds or that Administrative Approval of Secretary Irrigation department and his officers ever interrupted or recalled or why administrative approval (a longstanding practice and requirement under Rule of Business from Administrative department) for release of funds had issued by the Irrigation Department? This aspect of the present case

leads to the **tentative conclusion** that NAB's prosecution and investigation have not been conducted **across the board**, and critical oversight of monitoring and evaluation authorities remains unexamined and raises concerns regarding the completeness of investigation and institution of Reference.

56. The expression "**further inquiry**" derive from the provision of Section 497(2) Cr. P.C. and have been legally developed that lack of direct evidence linking accused to the allegation of alleged corruption, or documentary evidence requiring forensic verification or confirmed or confessional statements of co-accused not corroborated or the accused role appears minimal or supervisory or recovery of amount not establish or independently verified or if there are inconsistencies, contradictions, conflicting evidence, lack of direct culpability or if the Accused's role is peripheral and more importantly, when the material before the court creates doubt about the accused involvement. In any of the above-mentioned situations, case is generally called as **further inquiry** and the accused is entitled to bail. In contrast, further inquiry does not mean the accused is innocent it simply means that trial is necessary to determine **guilt** or otherwise.

57. The following judicial precedents are laid down by the Hon'ble Supreme Court confirming that "**further inquiry**" is a ground for bail.

- a. In "***Asfandar Wali Khan (supra)***"; upheld that bail can be granted where direct evidence is lacking or where NAB is using bail denial as a coercive tool.

- b. In “*Abdul Aziz Khan Niazi vs the State*”, (PLD, 2003 SC 668); held that the prosecution evidence did not conclusively connect the accused to the offense.
- c. In “*Shah Khawar vs the State*”, 2022 SCMR 387), held that the investigation was incomplete or flawed or the evidence against the accused were circumstantial.
- d. In “*Khawaja Saad Rafiq v. NAB*”, (PLD 2020 SC 456) rule that in cases of doubtful or indirect involvement, the accused must be granted bail.
- e. In “*Mohammed Iqbal Khan Nouri vs NAB*”, (PLD 2021 SC 362) reaffirmed that bail must be granted in cases of further inquiry, particularly where NAB’s allegation were speculative or the Accused’s role was not established.

58. Reasons enumerated for the first two-keys of “**reasonable grounds**” at paragraphs 45 to 51 and the third key of reasonable ground, a technical report cited by Mr.Naek has been included in the prosecution file by NAB itself—and does not originate from the applicant—coupled with the fact that NAB initiated its investigation after a considerable delay of 05-06 years, we are inclined to form a tentative assessment that the material evidence regarding development work at the site remains **unclear and ambiguous** at this stage of the case. The presence of two contradictory official reports suggests that this matter can only be properly resolved through the recording of evidence by the trial court. At this stage, a definitive conclusion cannot be drawn as no deeper appreciation is permissible under the rule of bails—simultaneously—both conflicting reports are part of the investigation record. Additionally,

the role of **Monitoring & Evaluation Offices/Authorities and officers** within the Planning Commission of Pakistan and the Ministry of Water & Power—being the designated watchdogs and observers of the project—or more close role of the **administrative Secretary and dealing officers** in the Irrigation Department, Government of Sindh have not been critically examined by NAB. On continuing to delving, the role of **Consultant** (obligatory supervisor at site) and Project Support and Monitoring Team (PSMT) constituted vide Notification dated 08 October 2002 for supervising the project have also not investigated with regard to commission of offence and if the contention of NAB is accepted that no bills were sent to PSMT for verification, still these officials cannot be excluded from their responsibility as their silence is meaningful as no complaint was moved by them when the culprits were drawing public funds in fraudulent manners and when the main work was not started, the Consultant or PSMT have not informed to their master to timely safe the public money from embezzlement, therefore, abetment and collusion cannot be ruled out.

59. Furthermore, the Applicant has admitted that the amount has received by him on account of certain works which he has performed and fulfilled as part of contractual obligation at site and this specific plea is the defence in the present criminal case. The allegations concerning the credit, debit, or transfer of cash between private contractors or third parties and the official accused remain matters of evidence and cannot be adjudicated at this stage. Likewise, the preparation of fraudulent bills, manipulation, or falsification of official records does not fall within

the purview of the “private contractor” as defined under Section 9 of the NAO or Section 409 of the PPC as it is not the job of the Applicant nor he was entrusted with it nor the statutes place any responsibility on this specific point of alleged offence. These responsibilities primarily rest with the officials accused. We will examine these aspects in the following paragraphs to determine whether “reasonable grounds” exist for refusing bails to official Accused when deciding the bail applications of the officials accused.

60. In light of the dictum established in the Choudhry Shujaat Hussain Case, the term ***'reasonable grounds'*** signifies the presence of essential facts and circumstances that would lead a prudent person to form a belief that it exists as claimed by the prosecution. In contrast, even the strongest suspicion—regardless of its intensity—cannot be equated with or transformed into *'reasons to believe'*. The distinction remains fundamental in legal interpretation, ensuring that mere conjecture does not substitute for substantive justification and it is couple with the legal principles that a person is presumed innocent until proven guilty by a court of law as consistently held by the Hon'ble Supreme Court of Pakistan.

61. Therefore, for our tentative assessment, the prosecution has not established “reasonable grounds” to refuse bail and the applicant (Farooq Ali Domki) case fall within the definition of ***"further inquiry"*** and accordingly he has admitted to the post-arrest bail subject to surety in a sum of Rs.70 Million and PR Bond in likely amount to the satisfaction of the trial Court.

Cr Bail Application No.D-59/2025 (Syed Bohral Shah)

62. In the presence of two contradictory reports—one prepared by the Anti-Corruption Establishment during investigations related to FIR No. 04 of 2021 and FIR No. 05 of 2021 at PS Jamshoro, and another concerning FIR No. 1 of 2021 at Thatta—the matter underwent further examination when the investigation was transferred to the NAB. The NAB investigation team subsequently inspected the crime scene and prepared another technical report, which contradicts the earlier findings by revealing that no construction or development work has taken place at the site.

63. Given these conflicting reports, we have already observed in bail granting order of Accused Farooq Ali Domki and we have determined that the cases of “private contractors” (Accused) are of “further inquiry” with regard to the development or construction work at site. Conversely, the allegations related to credit, debit, and money transfers by or between the Contractors Accused or Officials Accused or third parties require evidentiary scrutiny, making it improper to assess their veracity or form an opinion at this stage. However, in the case of Applicant Bhoral Shah (proprietor of M/s Bukhari and Sons), we observe that paragraph 26 (b) (vi) & (c) (iii) of the Investigation Report presents specific claims made by officials Asif Ali Bhirmani, M. Furqan Memon, Niaz Hussain Gondal, and Waqar Hussain Soomro. These officials assert that a substantial cash amount of Rs.310,922,000/- was withdrawn from various bank accounts, which were indisputably operated by the Applicant/Accused Bhooral Shah, and that the cash was handed over to the principal accused, Munawar Ali Bozdar. Furthermore, the paragraph 39(d) of the Investigation Report reveals that the Tender of Pardon application

of Accused Munawar Ali Bozdar had submitted with the NAB Investigation team and he has confirmed that companies of several Private Contractors (excluding Farooq Domki and Ali Khan companies) are dummy companies.

64. In light of this specific **plea and the direct evidence** presented, the Respondent NAB has successfully demonstrated “reasonable grounds” to draw an adverse inference in our tentative assessment. Accordingly, we conclude that the Applicant is not entitled to bail. Consequently, the bail application stands dismissed.

Cr. Bail Application No.D- 38 of 2025 (Ali Khan Tunio)

65. The case of the Applicant is proprietor of M/s Zakria Construction. The sole allegations are mentioned at paragraph 29 of the Investigation Report (available at Page No.103-105 of Court file) and his case is at par with that of co-accused Farooq Ali Domki. The Applicant has specifically pleaded that he has fulfilled his contractual obligations and received payments through cross-cheques. However, the Respondent **NAB** contends that no construction or development work has been carried out at the site, relying on the Technical Report prepared during the investigation, along with the addendum to the earlier investigation report and the said earlier technical report of the Anti-Corruption Establishment, which suggests that construction work has indeed been undertaken.

66. Given the presence of two contradictory reports and the reasons cited in Farooq Ali Domki case, the Applicant's case aligns with that of **Farooq Ali Domki**. Therefore, ad-interim bail dated 11.03.2025 to the applicants is confirmed with modification

of **surety of Rs. Five Million** and a **PR Bond** of an equivalent amount, to the satisfaction of the **trial court**.

Cr. Bail Application No.D-40 of 2025 (Imran Shaikh)

67. The charges against Applicant Imran Shaikh stem from his role as **Project Director**, where he initiated the PC-1, allegedly making him responsible for conspiracy and corruption involving the misappropriation of government funds meant for public welfare. However, the learned Counsel for the Applicant has drawn attention to Paragraph-5 (Reference No. 02/2021) and Paragrpah-27 (Investigation Report), highlighting that, according to the Prosecution's case, the alleged offence occurred between **December 2017 and September 2018**, whereas the Applicant was transferred from his post in July 2017, prior to the commission of the alleged offences. The Special Prosecutor NAB has not denied such fact of facts necessitate to connect the Applicant with the commission of offence in question.

68. Furthermore, the Applicant was neither deputed with any official responsibility nor entrusted with public funds during the entire period in question. Notably, the Prosecution has not alleged any monetary benefits or illegal gains against the Applicant in its investigation report (Page-211 of Court file). The only accusation against him is the preparation of PC-1, which, according to **NAB**, enabled the alleged embezzlement of public funds by other accused individuals. However, the preparation of PC-1 in the discharge of official duties may constitute an irregularity, which is now excluded from the purview of NAO under the newly amended provision of Section 4(2) (d) of NAO, 1999.

69. The NAB has failed to present any reasonable grounds against the Applicant or establish any nexus between him and the co-accused in relation to the commission of the offence. The material on record indicates that **no direct evidence** exists to justify withholding the Applicant's bail. Besides, the safeguard as discussed in paragraphs 32 to 36, attracts. Given these circumstances, the case of the Applicant falls within the ambit of further inquiry. Therefore, the Applicant is admitted to post-arrest bail upon furnishing a **surety of Rs. 30 Million** and a **PR Bond** of an equivalent amount, to the satisfaction of the **trial court**.

Cr Bail Application No.D-46 of 2025 (Abdul Malik Bullo)

70. The learned Counsel for the Applicant, Mr. Farooq H. Naek, Sr. ASC, argued that the only allegation against the Applicant in Reference No. 02 of 2021 is framed at paragraph 24 (page 203 of the court file), relating to collusion. He contended that no accusations of monetary benefits or illegal gain have been levelled against the Applicant. He further reiterated that a similar position is reflected in the investigation report, specifically in paragraph 40 (page 149 of the court file).

71. The learned Counsel further argued that the preparation and signing of bills by the Applicant fall within the scope of his official duties and, under the newly amended NAO, such allegations no longer constitute an offence, as they have been excluded from the purview of the NAO under sections 4(d) and 4(e). Additionally, he strongly disputed the forensic report prepared by NAB, asserting that the Applicant's signature was obtained in the presence of a Magistrate. Despite this, the Prosecution failed to include the Magistrate as a prosecution

witness in the reference, thereby violating Article 84 of the Qanun-e-Shahadat Ordinance.

72. On the other hand, the Respondent, NAB, maintains that reasonable grounds exist against the Applicant. It argues that 37 bills prepared and signed by the Applicant were recovered, of which 20 fake bills bear his genuine signature per forensic report conducted during investigation, while 17 fake bills contain a forged signature of the Applicant which were passed by the Senior Officer including principal Accused Mr. Bozdar and approved by the District Account Officer. Undoubtedly, some of the payments paid to the co-Accused Farooq Ali Domki, but as Mr. Naek pointed out that it is not the job of the Private Contractor to check bills or follow internal policy which are binding on the officials and the relationship governs by contractual obligations. This is the thin line of segregation between the cases of private contractors/accused and the official accused. Therefore, the safeguard of section 4(d) of the NAO cannot be given to the present Applicant (Official Accused) as his case squarely falls within definition of “criminal intent” and reasonable ground exist to refuse his post-arrest bail in view of material on record as elaborately discussed at paragraphs 32 to 36 above. The direct connection with forged 20 bills, which are not only signed by the applicant but he is the man who has prepared such bills coupled with the facts that official record including log book, measurement book, quantification and certification of development and construction work has either been stolen or destroyed with nefarious design. In the presence of such destruction or stolen of official record and failure of the Applicant to give plausible

explanation or valid justification in his plea about such official record and 20 bills valuing Rs.12,34,18,950/- and in view of the seriousness of allegations mentioned at paragraph-40 of the Investigation Report together with the material in voluminous documents, the Applicant is not entitled for the bail as direct evidence indicates his involvement. Therefore, the post arrest bail of the applicant is refused and his bail application is dismissed.

Cr Bail Application No.D-34 of 2025 (Inayatullah Channa)

73. The allegations against the Applicant is set forth at paragraph-20 of Reference No.2 of 2021 and Paragraph-39 of the Investigation Report.

74. The learned Counsel for the Applicant states that he was simply “**Assistant**” in the Account Office and had no authority or power. To pass or sanction any bill. He further states that the DDO (drawing and disbursement power) was lying with the Project Director. He further contends that the Applicant was simply processed the case and no actus rea or misuse can attract against the Applicant as he had no authority to approve or sanction the case(s). The learned Counsel argued that neither the provisions of Section 9(vi) is attracted to the case of the Applicant nor the Applicant has aided or abetted in the commission of crime as such Section 9(xii) of NAO does not attract against the Applicant and the Applicant is entitled for the post-arrest bail. He further argued that there are 78 Prosecution witnesses available and only 03 have been examined in last 4 years and the Applicant cannot keep under incarceration for indefinite period. The Special Prosecutor NAB strongly opposed the bail application and state that reasonable grounds exist against the Applicant and his

brothers Attaullah Channa and Wajid Ali Channa and they have failed to give plausible explanation and valid justification with regard to huge money recovered from their respective accounts. He further argued that the provisions of Section 9(a) (vi) & (xii) are fully attracted against the Applicant and his brothers for unexplained money which are crime proceeds.

75. During the course of arguments, it has been established that the material on record directly links the Applicant, his brother Ataullah Channa and Wajid Ali Channa, and his father-in-law, Manzoor Ahmed Samejo, with financial transactions involving a substantial sum of **Rs. 46,57,04,705/-**. The Applicant has failed to provide a reasonable explanation or valid justification regarding the accumulation and transfer of this amount.

76. The funds in question have been parked in the bank accounts of the Applicant, as well as in the accounts of his brother and father-in-law, on his behalf, raising serious concerns about the nature of these transactions. Given these circumstances, the National Accountability Bureau (NAB) has discharged its **initial legal burden** as required under **Article 117** of the *Qanun-e-Shahadat Order, 1984*, by presenting substantial material evidence. Furthermore, NAB has also met the **evidentiary burden** as required under **Article 121**, demonstrating that the burden of proof now lies on the Applicant to justify the legitimacy of the financial dealings in question and absence of plausible explanation or valid justification indicates a direct evidence against the Applicants.

77. The safeguard provisions outlined under **Sections 4** and criminal intent requirement of **Section 9 of the National**

Accountability Ordinance (NAO) have been thoroughly discussed and analyzed at above paragraphs 32 to 36, ensuring a fair tentative assessment of the legal implications surrounding the alleged transactions about unexplained money. The Applicant is not entitled to claim safeguard provision in the presence of criminal intent and misappropriation charges.

78. Based on our tentative assessment, the presence of a substantial documented amount in the bank accounts of the Applicant, as well as in the accounts of his brother and father-in-law, clearly falls within the scope of Section 9(a)(vi) & (xii) of the National Accountability Ordinance, 1999 (NAO, 1999). Given the material evidence available on record, which establishes reasonable grounds for suspicion and direct financial links, the Applicant is not entitled to the concession of post-arrest bail. In view of the documented financial transactions and the relevant statutory provisions, the bail application stands dismissed.

Cr Bail Application No. D-31 of 2025 (Wajid Ali Channa) and Cr. Bail Application No. D-33 of 2025 (Attaullah Channa)

79. In view of the allegations mentioned at paragraph 39(e) of the Investigation Report, the case of the Applicant is at par with the case of brother Applicant Inayatullah Channa. The paragraph 51 (c) of Investigation report indicates that Rupees 95 Million credited in the dummy account of the Applicant with name and style M/s Boulevard Limited for purchasing property by Wajid Ali Channa, the brother of the Accused Inayatullah Channa. Moreover, an amount of Rs.48,70,000/- credited in the account of Applicant Attaullah Channa.

80. In light of the **direct evidence** presented, including vouchers and bank statements seized by the Investigation Officer, reasonable grounds exist that establish a connection between the Applicants, Wajid Ali Channa and Attaullah Channa, and the commission of an offense under **Section 9(a)(xii) of the National Accountability Ordinance, 1999 (NAO, 1999)**. The offense falls within the **prohibitory clause**, the bail applications of both Applicants, Wajid Ali Channa and Attaullah Channa, stand dismissed. However, we observe that the Applicants (Ataullah Channa and Wajid Ali Channa) are at liberty to file a fresh bail application upon providing a plausible explanation or valid justification regarding the substantial funds in their accounts or alternatively presenting a specific plea regarding the crime proceeds before the Investigation Officer or the Trial Court.

81. In view of above, Criminal Bail Applications No.D-54 of 2025 (Farooq Ali Domki), D-38 of 2025 (Ali Khan Tunio) and D-40 of 2025 (Imran Shaikh) are granted on the conditions mentioned at paragraphs 61,66 & 69 while the Criminal Bail Applications No.D-59 of 2025 (Syed Bhoral Shah), D-46 of 2025 (Abdul Malik Bullo), D-34 of 2025 (Inayatullah Channa), D-33 of 2025 (Ataullah Channa), D-31 of 2025 (Wajid Ali Channa) are dismissed for the reasons mentioned at above paragraphs 64,72,78 & 80.

82. Criminal Bail applications No.D-31,33,34,38,40,46, 54 & 59 of 2025 stand disposed of.

83. We have observed in paragraphs 6 to 16 that this Court possesses inherent jurisdiction as recognized under Section 561-A Cr.P.C., which cannot be removed by any Special Statute or its ouster or non obstante clause(s). During the hearing, serious

concerns emerged regarding the misappropriation of over 05 billion rupees from the public exchequer in two references, causing harm to a national development project. In view of the gravity of the matter and damage to national cause of development and findings given at paragraphs 54 & 55 above, we find it necessary to direct as follow:

- i. The Chairman, Planning Commission of Pakistan is directed to establish monitoring and countercheck framework through its Monitoring & Evaluation Directorate or Prime Minister's Inspection Team for public development projects exceeding **Rupees 500 million** ensuring **written report** after **every four months**, providing verified site status updates and compliance with project objectives.
- ii. The Chief Secretary Sindh is directed to formulate policy framework regarding issuance of NOCs related to the release of funds by the Administrative Secretary for all public development projects **exceeding Rupees 300 million** every **financial year** together with rigorous oversight of work progress at the project site through the Chief Minister's Inspection Team or any other designated team, with **written reports** submitted every **four months** for his perusal and satisfaction. Both the Chairman, Planning Commission & Chief Secretary Sindh shall submit compliance report on 5th August 2025 for our perusal in chamber.

JUDGE

JUDGE

Announced by us.

Dated: ____ June 2025

JUDGE

JUDGE