

# **THE HIGH COURT OF SINDH, KARACHI**

Before:

***Justice Mohammad Karim Khan Agha***  
***Justice Adnan-ul-Karim Memon***

## **CP No.D-4639 of 2025**

[Khawaja Abdul Ghani Majeed v. Federation of Pakistan and others]

Petitioner : Through Mr. Raj Ali Wahid advocate

Respondent No.1 : Through Ms. Wajiha Mehdi Asstt. Attorney General for Pakistan

Respondents No.2 and 3 : Through Syed Khuram Kamal Special Prosecutor NAB

Date of hearing : 07.10.2025

Date of decision : 07.10.2025

## **JUDGMENT**

**Mohammad Karim Khan Agha, J.** –Through this petition, the petitioner has prayed for the following reliefs:

- (i) Set aside the impugned letter bearing No.1(2107)/2019/IM-1/R/NABHQ/DO(ECL/PCL) dated 30.07.2025 issued by the Respondent No.2 to the Respondent No.3.
- (ii) Suspend the operation of the impugned letter bearing No. No.1(2107)/2019/IM-1/R/NABHQ/DO(ECL/PCL) dated 30.07.2025 issued by the Respondent No.2 to the Respondent No.3.
- (iii) Direct the Respondent No.2/ NAB not to take any coercive measure in the backdrop of the impugned letter.
- (iv) Direct the Respondents to remove the name of the Petitioner from Passport Control List (PCL), Blacklist (BL), Exit Control List (ECL) or any other stop list putting an embargo on the travel of the Petitioner.
- (v) Direct Respondents not to place the name of the Petitioner in future on any travel ban list without the permission of this Hon'ble Court.
- (vi) Permit the Petitioner to travel abroad from time to time as the need arises.
- (vii) Any other relief(s) which this Honourable Court may deem fit and proper in the interest of justice.

2. The relevant facts for the disposal of the instant petition are that Respondent No. 2, vide letter bearing No.1(2107)/2019/IM-1/R/NABHQ/DO(ECL/PCL) dated 30.07.2025 (hereinafter referred to as the *impugned letter*), directed Respondent No. 3 to immediately place the name of the Petitioner, along with fourteen others, on the Passport Control List (PCL) in connection with NAB Reference No. 04/2019 titled (*State v. Khawaja Abdul Ghani Majeed & others*), which is pending adjudication before

the learned Accountability Court at Islamabad. It is the case of the Petitioner that during the pendency of the NAB Reference No.04/2019, substantial amendments were introduced in the National Accountability Ordinance, 1999 (hereinafter referred to as *NAO, 1999*) through the National Accountability (Amendment) Act, 2022 (Act No. XI of 2022) dated 22.06.2022 and subsequently, through the National Accountability (Second Amendment) Act, 2022 (Act No. XVI of 2022) dated 12.08.2022. According to the learned counsel for the Petitioner, Section 4 of the NAO, 1999 (as amended) carved out specific exceptions, whereby references falling within such exceptions ceased to fall within the jurisdiction of NAB. Moreover, it was argued that under Section 9(a)(vi), read with Explanation II of the NAO, 1999, strict proof of monetary or pecuniary benefit is required in order to establish the offence of corruption and corrupt practices.

3. On the basis of the above, an application was filed by the Petitioner before the learned Accountability Court, Islamabad, seeking a declaration that NAB no longer retained jurisdiction over Reference No. 04/2019. After hearing the parties, the learned Accountability Court vide Order dated 09.06.2023, accepted the Petitioner's plea and held that the reference fell outside the jurisdictional domain of NAB. Consequently, the matter was returned to NAB with a direction to transmit it to the competent forum, i.e., the learned Anti-Corruption Court, Sindh at Karachi. The amendments to the NAO, 1999 i.e., Act No. XI and XVI of 2022, were subsequently challenged before the Apex Court through Constitution Petition No. 21 of 2022 and CMA No. 5029 of 2022. Vide judgment dated 15.09.2023, the Apex Court declared certain provisions of the amendments as *ultra vires*, while others were upheld as *intra vires*. As a consequence, all inquiries, investigations, and references that had been disposed of on the basis of the struck down provisions were directed to be restored, and NAB was ordered to transmit the same back to the concerned Accountability Courts within seven days. Reference No. 04/2019, therefore, stood revived before the learned Accountability Court at Islamabad. However, the Federal Government, aggrieved by the said judgment, preferred Intra-Court Appeals No. 2, 3, and 4 of 2023, which were allowed vide Judgment dated 06.09.2024. Through the said judgment, the earlier decision dated 15.09.2023 was set aside, and the amendments introduced through Act No.XI and XVI of 2022 were upheld and restored in toto. Accordingly, it was again contended by the Petitioner that Reference No. 04/2019, by operation of law, stood excluded from the jurisdictional scope of NAB and was once again liable to be transmitted to the competent forum. In this regard, the Petitioner filed another application before the learned Accountability Court, Islamabad, which is currently pending adjudication. One of the co-accused persons, namely Abdul Jabbar s/o Rehmatullah, filed Writ Petition No. 3402/2025 before the Islamabad High Court. Vide Order dated 04.09.2025, the learned Accountability Court was directed to decide the jurisdictional application

preferably within fifteen days but as yet despite the lapse of one month no decision has been made by the concerned Accountability court.

4. It is further submitted that earlier the Petitioner's name was placed on the Exit Control List (ECL) in connection with the same NAB Reference. However, vide letter dated 17.11.2022, **NAB itself recommended removal of the Petitioner's name from the ECL. Thereafter, the Petitioner filed W.P. No. 90/2023 before the Islamabad High Court seeking the return of his original passport. In those proceedings, NAB did not object to such relief. Consequently, vide Order dated 02.02.2023, the High Court ordered return of the passport to the Petitioner. Subsequently, the name of the Petitioner was formally removed from the ECL pursuant to Cabinet Decision No. 29/06/2023 dated 22.02.2023.** Despite the above, Respondent No. 2 issued the impugned letter dated 30.07.2025, whereby the name of the Petitioner was once again directed to be placed on the Passport Control List, without any cogent reasons, justification or prior notice. Lastly, it has been submitted that the Petitioner has no adequate alternate remedy available under the law, hence has approached this Court by way of the instant petition.

5. Learned counsel for the petitioner emphatically argued that the impugned letter has been issued by Respondent No.3 without lawful authority, as NAB Reference No.04/2019 is presently pending before the Accountability Court, Islamabad, for determination on the question of jurisdiction. Until such determination is made, no adverse action could lawfully be taken against the petitioner. It was further contended that the impugned letter violates Articles 4, 9, 15, 18, and 25 of the Constitution, as it restricts the petitioner's fundamental rights to liberty, movement, and equality before the law, without due process. It is further submitted that the action amounts to harassment and constitutes a colorable exercise of power. It is settled law that executive authorities cannot curtail constitutional rights in the absence of lawful justification or cogent reasons. The petitioner was neither served with prior notice nor afforded an opportunity of hearing before his name was placed on the Passport Control List (PCL). As held by the superior courts, mere pendency of a reference or investigation is not a valid ground to restrict a citizen's movement, unless there is credible material suggesting likelihood of absconsion which, in the present case, is absent. It was further argued that none of the grounds under Rule 2 of the Exit from Pakistan (Control) Rules, 2010 are attracted, as the petitioner is not involved in any matter warranting such restriction. The impugned action is also contrary to the Passport Control Rules and binding precedents of the superior courts. Therefore, the impugned letter is liable to be set aside. Reliance has been placed upon the cases of **Miss Ayyan Ali vs. Federation of Pakistan** (2017 P.Cr.L.J 920), **Gen. (Rtd) Pervez Musharaf vs. Pakistan trough Secretary Interior and others** (PLD 2014 Sindh 389), **Tanveer Shakoor vs.**

**Federation of Pakistan** (PLD 2014 Lahore 482) and **Rafique vs. Federation of Pakistan** (2018 MLD 579).

6. On the other hand, learned Special Prosecutor NAB duly assisted by learned Asstt. Attorney General argued that the petitioner is an accused in NAB Reference No.04 of 2019, with specific allegations of corruption and corrupt practices; that impugned letter has been issued due to alleged embezzlement which is a serious offence. As regards to the maintainability, it is submitted that NAB Reference is still pending at Islamabad and the letter was issued from NAB Islamabad to DG Immigration and Passport Islamabad for placing the name of the petitioner on PCL, as such this petition is not maintainable before this Court and has to be filed before Islamabad High Court.

7. We have heard learned counsel for the parties and have perused the relevant record minutely.

8. The first issue is whether this court has territorial jurisdiction to hear this petition. As the request which lead to the impugned letter came from NAB Islamabad and the impugned letter was issue by the DG Immigration and passport from Islamabad. It is well settled by now that since both these institutions operate throughout Pakistan a high court can hear the matter. In this respect reliance is placed on the case of **The Federal Government v Ms Ayyan Ali** (2017 SCMR 1179) which held as under in material part;

*4. As regards the question of territorial jurisdiction, it hardly need any emphasis that the impugned Notification/Memorandum has been issued by the Federal Government, which functions all over the country, and since the respondent No.1 resides in Karachi, and has a right and choice to proceed abroad through Jinnah International Airport, Karachi, and in fact atleast twice earlier she had proceeded to go abroad through Jinnah International Airport, Karachi, though she was stopped owing to the earlier Notifications / Memorandums, and therefore the embargo placed on her leaving the country has in fact taken place at Karachi, which prevention in all likelihood, was to be repeated at Karachi in pursuance of the third Notification/Memorandum, and thus giving rise to a cause of action against the third Notification/Memorandum at Karachi because of its taking effect there. **It is now well settled that the Federal Government, though may have exclusive residence or location at Islamabad, would still be deemed to function all over the country.** In this regard the case of *LPG Association of Pakistan through its Chairman v. Federation of Pakistan through Secretary Ministry of Petroleum and Natural Resources Islamabad and 8 others* (2009 CLD 1498), may be referred to, whereby the Lahore High Court, after meticulously analyzing the judgments rendered by this Court, as well as of the High Courts on the question of territorial jurisdiction, with regard to the acts, deeds and the legislative instruments of/by the Federal Government, has deduced the jurisprudential principles as follows:-*

***"(A) The Federal Government or any body politic or a corporation or a statutory authority having exclusive residence or location at***

*Islamabad with no office at any other place in any of the Province, shall still be deemed to function all over the country.*

*(B) If such Government, body or authority passes any order or initiates an action at Islamabad, but it affects the "aggrieved party" at the place other than the Federal capital, such party shall have a cause of action to agitate about his grievance within the territorial jurisdiction of the High Court in which said order/action has affected him.*

*(C) This shall be moreso in the cases where a party is aggrieved by a legislative instrument (including any rules, etc.) on the ground of it being ultra vires, because the cause to sue against that law shall accrue to a person at the place where his rights have been affected. For example, if a law is challenged on the ground that it is confiscatory in nature, violative of the fundamental rights to property; profession; association etc. and any curb has been placed upon such a right by a law enforced at Islamabad, besides there, it can also be challenged within the jurisdiction of the High Court, where the right is likely to be affected.*

*In this context, illustrations can be given, that if some duty/tax has been imposed upon the withdrawal of the amounts by the account holders from their bank account and the aggrieved party is, maintaining the account at Lahore though the Act/law has been passed at Islamabad, yet his right being affected where he maintained the account (Lahore), he also can competently initiate a writ petition in Lahore besides Islamabad; this shall also be true for the violation of any right to profession, if being conducted by a person at Lahore, obviously in the situation, he shall have a right to seek the enforcement of his right in any of the two High Courts." (bold added)*

9. The petitioner is a resident of Karachi and uses Jinnah International Airport to travel abroad and thus, we find that this court does have territorial jurisdiction to hear this petition.

10. At this juncture, it would be conducive to note that the petitioner is arrayed as an accused in National Accountability Bureau Reference 04/2019 State Vs Khawaja Abdul Ghani Majeed and others which despite the lapse of 6 years still remains undecided and in fact is at its very initial stages and is likely to take many years to conclude. The question therefore arises for how long can the State deprive a person of his fundamental right of freedom of movement under Article 15 and his right to life under Article 9 of the Constitution? The answer is not indefinitely as these are fundamental rights guaranteed under the Constitution.

11. It is not even clear if the concerned National Accountability Court has jurisdiction to hear this case and as such the National Accountability Bureau may not even have the jurisdiction to place the Petitioner on the ECL and/or PCL.

12. It would be pertinent to mention here that the impugned letter was challenged by one of the accused namely Abdul Jabbar before Islamabad High Court by preferring W.P.No. 3399/2025 and vide order dated 26.09.2025, the impugned letter was set aside in the following terms.

*“7. In view of above discussions, since the name of petitioner has been placed on PCL only on the mere apprehension that he may abscond or tamper with the evidence is without any substance which is held to be misconceived. Hence, instant petition is accepted and impugned letter is set aside to the extent of petitioner. The Respondent No.4 is directed to remove the name of petitioner from PCL.”*

13. What seems very surprising and curious to us in that 2 years ago the National Accountability Bureau agreed to take the Petitioner off the ECL and as such his name was removed. In those two years notwithstanding the pending reference against him the petitioner was free to travel outside of Pakistan which he did on a number of occasions whilst always returning to Pakistan in order to face the reference against him.

14. Now out of the blue for no cogent reason after two years of freely travelling abroad and always returning despite the reference pending against him the petitioner was put on the PCL. In fact he was travelling in China when his name was put on the PCL and as such if he wanted to abscond he would have done so and not returned to Pakistan and as such there is no material to suggest that the petitioner intends to abscond especially as he could have done so during the last two years before he was placed on the PCL. There is also no likelihood of him tampering with evidence as he has not done so in the last two years which would not be possible any way as most of the evidence is in documentary form and is with the prosecution. Likewise there is no evidence that since being granted bail a number of years ago that he has ever tried to interfere with a prosecution witness. In fact there is no evidence to suggest that he has misused his concession. The petitioner is a businessman with deep roots in Karachi and also needs to frequently travel abroad for business purposes. None of this has been denied by the Special Prosecutor NAB. Furthermore the petitioner has been on bail for a considerable period of time and has not miss used that concession. Thus, the placing of the petitioner on the PCL *now* after the gap of two years under the circumstances narrated above for no apparent cogent reason by the National Accountability Bureau is completely inexplicable and unjustifiable bordering on harassment and amounts to a complete misuse of authority.

15. Even otherwise it is well settled through a plethora of authorities from the Supreme Court that a citizen's right of freedom of movement under Article 15 and right to life under Article 9 of the Constitution cannot be curtailed simply because a criminal case is pending against him. In this respect reliance is placed on the case of **Ayyan Ali** (Supra) which held as under;

*“13. Reverting to the third Notification/Memorandum it is crucial to note that like the earlier two Notifications/Memorandums, the third Notification/Memorandum was issued purportedly for the reasons which do not conform to the criteria as laid down in the relevant rules and the exit control policy. It was not only in the case of **Wajid Shamsul Hassan v. Federation of Pakistan through Secretary Ministry of Interior, Islamabad** (PLD 1997 Lahore 617), where it was held that the liberty of a citizen cannot be curtailed*

*by mere registering a criminal case, and that mere registration of FIR would not be a ground for depriving a citizen of the exercise of his constitutional right and further that registration of a criminal case has no nexus with and is extraneous to the object of the Exit from Pakistan (Control) Ordinance 1981, but even in the case of respondent No.1, in relation to the second Notification/Memorandum, this Court, while dismissing the petitioner's petition for leave, through judgment dated 13.4.2016, has held as follows:-*

*"5. Respondent No.1, no doubt, has been charged in a case mentioned above which is still pending adjudication in the competent Court of law. But mere pendency of a criminal case cannot furnish a justification for prohibiting her movement. It has never been the case of the petitioners that the respondent is involved in any of the cases listed in Rule 2 of the Exit from Pakistan (Control) Rules, 2010 in general or Rule 2(1)(b) in particular, inasmuch as she has not been charged to have embezzled a large government's fraud or committed institutional fraud."*

16. Thus, it is well settled that a pending criminal case which has a long way to go cannot trump indefinitely the fundamental rights guaranteed under Articles 15 and 9 of the Constitution which in this case seem to have been violated in bad faith for no good reason after the filing of the reference.

17. This being the case for the reasons discussed above we hereby;

- (i) Set aside the impugned letter dated 30.07.2025 issued by the Respondent No.2 to the Respondent No.3 as being passed without lawful authority.
- (ii) Direct the Respondents to immediately remove the name of the petitioner from Passport Control List (PCL), Blacklist (BL), Exit Control List (ECL) or any other stop list putting an embargo on the travel of the petitioner outside of Pakistan.
- (iii) Direct Respondents not to place the name of the Petitioner in future on any travel ban list without the permission of this Hon'ble Court.

18. Copy of this judgment shall be sent by fax and electronic modes to the Chairman NAB, Secretary Ministry of Interior, Government of Pakistan, DG Immigration and Passport PCL Section Islamabad and Presiding Officer of Accountability Court Islamabad for information and compliance as the case may be.

19. We have also been informed that a similar order passed by this court in the case of Nazam-Uz-Zaman passed over 3 weeks ago has not been complied with by the Respondents.

20. As such the DAG, Special Prosecutor NAB, Secretary Ministry of Interior Government of Pakistan and DG Immigration and Passport PCL Section Islamabad are directed to submit a **compliance report** in respect of the petitioner's name being removed from the PCL and any other reliefs given in this order on the next date of hearing. A copy of this order shall be sent to DAG, Special Prosecutor NAB, Secretary

Ministry of Interior Government of Pakistan and DG Immigration and Passport PCL Section Islamabad by fax and electronic modes for compliance.

21. Petition stands disposed of in the above terms along with pending/listed applications. However, compliance report shall be sent to this Court through MIT for our perusal on 10<sup>th</sup> October 2025.

HEAD OF CONST. BENCHES

JUDGE