

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constitution Petition No. D- 1361 of 2024

(Abid Rasheed Vs. Federation of Pakistan & others)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Before;

Adnan-ul-Karim Memon,

J;

Abdul Hamid Bhurgri, J;

Date of hearing and order: 15-06-2026.

Mr. Ghulam Murtaza Korai, Advocate for the petitioner.

Mr. Syed Naveed Ahmed Shah Deputy Attorney General.

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ORDER.

Adnan-ul-Karim Memon J:- Petitioner Abid Rasheed has filed the present constitutional petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking directions to respondents No.1 to 4 to act strictly in accordance with law and to refrain from harassing, humiliating, disgracing, or pressurizing him in connection with Inquiry No.201 of 2024, as he asserts that he has no concern whatsoever with the said inquiry. The petitioner has further sought a direction to the said respondents to place on record and submit the relevant inquiry papers of Inquiry No.201 of 2024. He has also prayed for directions to respondents No.5 to 7 to immediately release and restore operation of his five bank accounts and one credit card, as detailed in paragraph No.7 of the petition, which have been blocked in connection with the aforesaid inquiry.

2. At the outset, learned counsel for the petitioner submitted that FIR No.177/2024 dated 23.07.2024 has been registered against the petitioner and others under Sections 14 and 17 of the PECA Act, 2016, read with Sections 34 and 109 PPC, therefore his case is confined to the extent of blocking of his bank accounts which needs to be unblocked in terms of decision of this Court in the case of Najib Raheem Vs Federation of Pakistan and others PLD 2017 Sindh 53.

3. learned DAG submitted that the matter originated from Complaint No. CCW-N-605/2024 received by the FIA Cyber Crime Reporting Centre, Islamabad, on 25.01.2024. The complainant, Zubaida Bibi, alleged that an unknown person, using a spoofed National Bank helpline number, impersonated a bank representative, obtained her confidential information, and fraudulently transferred Rs. 791,000 from her bank account through multiple transactions. During the inquiry, the complainant recorded her statement and provided supporting evidence. The investigation revealed that the stolen amount had been transferred to various branchless banking accounts and used to top up several Zong mobile numbers. Subscriber details of the relevant SIMs were obtained, and the registered subscribers were summoned. It transpired that the subscribers were unaware of the issuance and use of the SIMs in question. He further stated that efforts were made to trace the retailers who issued the SIMs. Although Zong provided information regarding the franchises involved, details of the retailers could not be obtained despite repeated requests. Consequently, notices were issued to the franchise owners for inquiry purposes. He added that the petitioner, Abid Rasheed, owner of Naflay Communication, was among those summoned. Although initially required to appear before the FIA, he failed to do so and instead denied any involvement, claiming that he had resigned from the franchise in March 2022. However, the record showed that the disputed SIMs had been issued during his tenure in July 2021. Subsequently, a debit block was placed on his bank accounts under Section 5(5) of the FIA Act, 1974, and a second notice was issued. Upon appearance, the petitioner again denied involvement and sought time to provide details of the retailers responsible for issuing the SIMs, but later left the office and became unreachable. He further pointed out that the PTA had lodged a complaint regarding the franchises involved in the issuance of illegal SIMs, considering them a potential threat to national security. Thereafter, FIR No.177/2024 dated 23.07.2024 was registered against the petitioner and others under Sections 14 and 17 of the PECA Act, 2016, read with Sections 34 and 109 PPC. Although arrest warrants were issued, the petitioner evaded arrest, resulting in proclamation proceedings under Section 87 Cr.P.C. On these grounds, the DAG prayed for dismissal of the petition and requested that the petitioner be directed to appear before the FIA

authorities and explain his role in the issuance of the illegal SIMs, as the criminal case against him was already pending investigation.

4. We have heard learned counsel for the parties and have examined the available record.

5. The controversy before this Court has been narrowed down by the learned counsel for the petitioner to the extent of the blocking of the petitioner's bank accounts and credit card, as admittedly FIR No.177/2024 dated 23.07.2024 has already been registered against the petitioner and others under Sections 14 and 17 of the Prevention of Electronic Crimes Act, 2016, read with Sections 34 and 109 PPC.

6. The record reflects that the petitioner's bank accounts were blocked during the inquiry stage by the FIA in exercise of powers purportedly conferred under Section 5(5) of the FIA Act, 1974. It is also an admitted position that the inquiry has culminated in the registration of the aforesaid FIR, and the matter has now entered the domain of criminal investigation and prosecution. No material has been placed before this Court to demonstrate that any competent court has subsequently passed an order directing the continued freezing or attachment of the petitioner's bank accounts in accordance with law.

7. The issue regarding the power of FIA to place debit restrictions upon bank accounts came under elaborate consideration by this Court in Najib Rahim v. Federation of Pakistan and others (PLD 2017 Sindh 53). In the said case, it was held that although the FIA may, during the course of inquiry, seek temporary restraint over an account for purposes of investigation, such action cannot continue indefinitely and does not amount to permanent freezing or attachment of property. It was further held that the FIA Act does not confer unbridled authority upon the Agency to deprive a citizen of the operation of his bank account for an unlimited period without recourse to a competent court. Any continued restraint affecting proprietary rights must have the sanction of law and be subject to judicial oversight. The ratio decidendi of the said judgment is that executive authorities cannot, by administrative action alone, indefinitely curtail a citizen's right to operate his bank account once the matter has progressed into

regular criminal proceedings, unless such restraint is authorized by a competent court under the relevant provisions of law.

8. In the present case, despite the seriousness of the allegations levelled against the petitioner and the pendency of criminal proceedings arising out of FIR No.177/2024, the respondents have not pointed out any order of a competent court authorizing the continued blocking of the petitioner's bank accounts and credit card. The mere pendency of an inquiry or criminal case cannot, by itself, justify an indefinite restriction upon the petitioner's proprietary and banking rights. If the investigating agency considers any account or asset to be connected with the commission of an offence or liable to attachment, it is always at liberty to seek appropriate orders from the competent forum in accordance with law.

9. Consequently, while without touching the merits of the allegations pending investigation against the petitioner, the continued debit block placed upon the petitioner's bank accounts and credit card, without the backing of any judicial order, cannot be sustained. Accordingly, petitioners/respondents Nos. 5 to 7 are directed to approach the competent court for the aforesaid purposes and obtain necessary permission if not earlier obtained within three weeks, and now it is up to the trial court to restore the operation of the petitioner's bank accounts and credit card, in accordance with law by hearing the parties. The investigating agency shall, however, remain at liberty to proceed with the investigation and take all lawful steps permissible under the relevant statutes.

10. With the above observations and directions, this petition stands disposed of.

JUDGE

JUDGE