

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

Before:

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

## **CP No.D-4724 of 2025**

[Manzoor Qadir vs. Federation of Pakistan and others]

Petitioner : Through Barrister Iftikhar Ahmed Shah  
advocate

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

Respondents No.2 to 4 : Through Syed Azhar Maqbool DPGA QH  
NAB and Syed Manzoor Ali Special  
Prosecutor NAB Karachi

Date of hearing : 08.10.2025

Date of decision : 08.10.2025

## **ORDER**

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

- (a) Declare that the impugned order dated 26-08-2025 passed by the respondent No.5 (Annexure A) is malafide, illegal, without jurisdiction, null and void ab initio and as a consequential relief set-aside the same with directions to the respondent No.2 and 3 to submit compliance report within 48 hours of the passing of the order of this Hon'ble Court.
- (b) Declare that the impugned Letter bearing No.7809/2025K (CORRES) (BTK&NABHK(PCL) dated 1<sup>st</sup> February 2025 issued by respondent No.2 (Annexure B) is malafide, illegal, without jurisdiction, null and void ab initio and as a consequential relief set-aside the same.
- (c) Declare that the impugned Letter bearing No.2/03/2025-PCL dated 1<sup>st</sup> February 2025 issued by the respondent No.3 (Annexure-C) is malafide, illegal, without jurisdiction, null and void abinitio and as a consequential relief set-aside the same.
- (d) Direct the respondents No.1 to 4 to remove the name of the petitioner from Passport Control List (PCL), Black List (BL) and any other Stop List putting an embargo on the travel of the petitioner.
- (e) Direct the respondents not to place the name of petitioner in future on any Travel Ban List without permission of this Hon'ble Court.
- (f) Suspend the operation of the impugned order dated 26-08-2025 passed by the respondent No.5 (Annexure-A).
- (g) Suspend the operation of impugned letter bearing NO. 7809/2025 (CORRES)(BTK&NABHK(PCL) dated 1<sup>st</sup> February 2025 issued by respondent No.2 (Annexure B).

- (h) Suspend the operation of letter bearing No.2/03/2025-PCL dated 1<sup>st</sup> February 2025 issued by the respondent No.3 (Annexure-C).
- (i) Pass any order relief which this Hon'ble Court deem fit, just, proper and necessary under the circumstances of the case.

2. The relevant facts for the disposal of the instant petition are that the petitioner is a professional Architect, who last served as Director General, Sindh Building Control Authority (SBCA), Karachi, before his retirement in December 2022. It is submitted that the petitioner has been arrayed as accused No.32 in NAB Reference No.01 of 2025 filed by respondent No.2 before the learned Accountability Court No.III, Karachi. It is further submitted that the petitioner's name was initially placed on the Exit Control List (ECL) in the year 2021 on the recommendations of respondent No.2. Subsequently, the respondent No.2, vide letter dated 25.04.2024, recommended to respondent No.1 the removal of the petitioner's name from the ECL. Pursuant to this recommendation, respondent No.1 issued a Memorandum bearing No.12/251/2021-ECL dated 14.06.2024, whereby the name of the petitioner was deleted from the ECL on the basis of the decision of the Federal Government reflected in Cabinet Decision No.253/Rule-19/2024/474 dated 14.06.2024. It is further the case of the petitioner that he is a cancer patient and requires frequent follow-up consultations with his "Primary Surgeon" who is based in Toronto, Canada. It is submitted that after the removal of his name from the ECL, the petitioner had been travelling abroad for treatment and had regularly returned to Pakistan. However, he has now missed several crucial medical appointments after his name was placed on the Passport Control List (PCL), which has restricted his ability to travel. The petitioner had earlier challenged the placing of his name on the ECL by filing Writ Petition No.1525/2025 before the Islamabad High Court. However, the said petition was dismissed vide order dated 18.06.2025. Thereafter, the petitioner filed an application in Reference No.01 of 2025 (State v. Malik Riaz Hussain & others) before the learned Accountability Court No.III, Sindh, Karachi, seeking permission to travel abroad and for the removal of his name from the PCL. However, the said application was dismissed vide order dated 26.08.2025. Hence the petitioner having no alternate or efficacious remedy has approached this Court through instant petition.

3. Learned counsel for the petitioner has argued that the impugned order dated 26.08.2025 passed by respondent No.5 and the letters dated 01.02.2025 issued by respondents No.2 and 3 are illegal, arbitrary, and without lawful authority. It is contended that the said letters are based on conjecture and surmise and are in clear violation of the provisions of the Passport Act, 1974, and Rule 22 of the Passport Control Rules, 2021. It is further submitted that the impugned action also violates the petitioner's fundamental rights guaranteed under Articles 4, 9, 15, 18, and 25 of the Constitution, as it restricts his liberty, freedom of movement, and equality before the law without due process. Further it is submitted that no cogent or lawful reasons have been assigned for placing the petitioner's name on the PCL. It is next argued that the petitioner has been consistently appearing in the Accountability Court either personally

or through his counsel. Furthermore, it is submitted that the petitioner's medical condition is serious, as he is suffering from Stage IV cancer and is under treatment at Toronto General Hospital. The petitioner had scheduled medical appointments on 24.06.2025 (CT Head & Neck) and/or 08.07.2025 (E&T), which he could not attend due to the impugned restriction on his travel. Thus, this type of diseases requires urgent medical treatment, as such, the petitioner, having no alternate or efficacious remedy, has invoked the constitutional jurisdiction of this Court by way of the instant petition.

4. Conversely, the learned DPGA, NAB duly assisted by the learned Assistant Attorney General for Pakistan, vehemently opposed the petition. It is submitted that the petitioner is facing trial as an accused in NAB Reference No.01 of 2025 wherein specific and serious allegations of corruption and corrupt practices have been leveled against him; that the impugned letters and the action of placing the petitioner's name on the PCL are premised upon the gravity of the alleged embezzlement, which constitutes a serious offence under the National Accountability Ordinance 1999 (NAO). It was further argued that the medical grounds urged by the petitioner are overstated. Lastly, it was submitted that the reference in which the petitioner is arrayed as an accused is still subjudice before the learned Accountability Court, and in these circumstances, no case is made out. Accordingly, he prayed for dismissal of the instant petition.

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

6. Reference No.1/25 is pending before Accountability Court No.1 Karachi where the petitioner is on bail and as such this court has the territorial jurisdiction to hear this petition especially as the petitioner lives in Karachi and travels from Jinnah International Airport at Karachi. The petitioner had approached the concerned Accountability court to remove his name from the PCL so that he could travel abroad for medical treatment however his application was declined by the concerned Accountability Court vide order dated 26.08.2025 which is essentially the impugned order in this case which the petitioner is challenging as according to his counsel as he needs one off exemption from the PCL so that he may travel to Canada for medical treatment as he is suffering from cancer.

7. At this juncture, it would be conducive to note that the petitioner is arrayed as an accused in National Accountability Bureau Reference 01/2025 State Vs Malik Riaz Hussain and others which is still pending adjudication 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 especially when he is suffering from a very serious ailment? The answer is not indefinitely as these are fundamental rights guaranteed under the Constitution.



12. The latest correspondence from the Aga Khan Hospital in connection with the petitioner dated 3.10.2025 states as under;

“The Aga Khan University Hospital, Karachi

**TO WHOM IT MAY CONCERN**

Patient Name: Manzoor Qadir

MR # 482-74-75

***Subject: Medical Recommendation for Oncology Treatment Mr. manzoor Qadir (MR # 482-74-75)***

***Mr. Manzoor Qadir is a known case of squamous cell carcinoma of the buccal mucosa. He underwent definitive surgery followed by adjuvant radiation therapy in Canada in 2022. He now presents with a biopsy-confirmed recurrence on the right side: moderately differentiated keratinizing squamous cell carcinoma. Staging workup is currently pending.***

***While all treatment modalities including surgery, chemotherapy, immunotherapy, and advanced radiation options are available at our center (Aga Khan University Hospital, Karachi, Pakistan), the complex nature of recurrent head and neck cancers, especially in previously irradiated fields, poses significant technical and logistical challenges. Given that his prior radiation therapy was delivered in Canada, access to those planning records and continuity of care at the original treating institution would make re-treatment (especially re-irradiation if indicated) more feasible, safe and effective.” (bold added)***

Sd/-

***Yasmin A. Rashid, MBBS, FCPS (Medicine & Oncology) (bold added)***

13. It would be conducive to note here that the right to life is a fundamental right guaranteed by the Constitution and stands protected under Article 9 thereof, which cannot be curtailed except in accordance with law. Human life has been placed on the highest pedestal not only by the Constitution but also under various statutory provisions, and its protection must be ensured even in the context of ongoing criminal proceedings. It must also be borne in mind that the law requires a living person to stand trial; a conviction cannot be secured against a deceased accused, regardless of the strength of the prosecution’s case. In the present case, the Consultant Medical Oncologist at Aga Khan University Hospital, Karachi, has opined that since the petitioner previously underwent radiation therapy in Canada, access to those prior treatment records and continuity of care at the original treating institution would render any potential re-treatment, particularly re-irradiation, if indicated **more feasible, safe, and effective**. In any event no material has been placed before this Court to rebut or cast doubt upon the medical documentation submitted by the learned counsel for the petitioner which comes from one of the most prestigious medical institutions in Pakistan, which clearly indicates that the petitioner is suffering from stage IV cancer. In the absence of any credible challenge to the authenticity of such documents, this Court sees no reason to disbelieve them at this stage. Furthermore, the learned counsel for the petitioner has submitted that the petitioner is prepared to furnish adequate security, whether in the form of cash, defence savings certificates, or any other manner deemed

appropriate by this Court and to provide a binding undertaking to return to Pakistan after receiving the necessary medical treatment abroad.

14. In such circumstances as narrated above, and subject to appropriate conditions, the apprehension of the prosecution that the petitioner seeks to travel abroad merely to evade trial appears, at present, to be without sufficient basis especially as we have already noted in this order that the petitioner went abroad to Canada for his treatment for 3 months and did not abscond despite having every opportunity to do the same. Instead he returned to Pakistan in order to face trial. We as a court cannot play around with the lives of the accused if they appear to be in danger due to medical reasons.

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 especially where the accused is suffering from a life threatening ailment (advanced Stage IV cancer) and needs treatment abroad as indicated by the Aga Khan Hospital earlier in this order whose opinion we have no reasons to doubt.

17. Furthermore, the case against the petitioner is based on documentary evidence which is with the prosecution so he cannot tamper with the same and there is no material to suggest that the petitioner has ever attempted to interfere with any prosecution witness.

18. **In conclusion.**

(a) We set aside the impugned order;

(b) Order the removal of the petitioners name from the PCL and ECL or any black list and grant permission to the petitioner to travel abroad for medical treatment and stay abroad for a period of three months from the date of his departure subject to furnishing security in the sum of rupees twenty lacs to the satisfaction of the learned Accountability Court.

(c) Consequently impugned order dated 26.08.2025 and letters dated 1<sup>st</sup> February 2025 are set aside. The respondents are directed 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 for the 3 month period in which he is absent from Pakistan.

(d) That if the petitioners passport is not in his possession but in the possession of any authority it be immediately returned to him.

(e) Direct learned counsel for the petitioner, as agreed by him, to appear in the stead of the petitioner on each and every date of court hearing in his absence and proceed with the matter so that the trial is not delayed

19. A 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.

20. Petition stands disposed of in the above terms along with pending/listed applications.

HEAD OF CONST. BENCHES

JUDGE