

ORDER SHEET

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD.**

Cr. Misc.Appln:No.S-56 of 2026

DATE

ORDER WITH SIGNATURE OF JUDGE

1. For orders on office objection.
2. For hearing of main case.

04.05.2026

Mr. Sajid Ali Gorar, advocate for applicant.

Mr. Altaf Hussain Khokhar, D.P.G for State

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**O R D E R**

*Syed Fiaz ul Hassan Shah, J.* Applicant seeks reduction of surety which was put by the trial Court while bail granting Order dated 18.12.2024. Subsequently, an application for reduction of surety was moved by the Applicant before the Anti-Corruption (Provincial) Court, Hyderabad (**Trial Court**), which was dismissed vide Order dated 24.09.2025 (**impugned Order**). Basically, the case in question was transferred from the NAB to the Anti-Corruption Establishment, Sindh in view of the change of forum for trial through the NAO (Amendment) Act, 2022. Office objection is therefore, deferred.

2. Learned counsel for the applicant states that while granting bail, the learned trial Court pronounced two sureties in the sum of Rupees One Million each subject to submitting the remaining liability amount of Rs.29,99,744/-; and one surety out of two sureties in shape of Saving Certificates which apparently in violation of the principal as laid down in the case of "*Maqbool Ahmed Mahessar and others vs National Accountability Bureau (NAB) through Chairman and others*", (2021 SCMR 1166). He prayed that the impugned order

may be modified and applicant/accused may be admitted to bail on terms of parity and equity in line with the co-accused Shoukat Jokhio and Abdul Qasim Shaikh i.e. upon furnishing one solvent surety of Rs.500,000/-and personal bond of like amount as granted by this Court in its orders dated 12.06.2018 and 24.08.20217.

3. On the other hand, learned D.P.G. supports the impugned order.

4. The grant of bail is a transfer of custody of an accused from judicial custody, under the Superintendent of Jail, to the surety who undertakes to secure the attendance of the accused during trial. This concession, however, cannot be equated with a barter or exchange against the liberty of the accused. Unless guilt is proven, the principles governing bail in a pending trial are distinct, requiring the Court to exercise discretion in accordance with settled jurisprudence and reasonableness.

5. Within the NAB statutory hierarchy, the concept of requiring surety equivalent to the alleged liability has been abandoned by superior courts. After such obsolescence of Liability-Based Surety, there is hardly any precedent exists within anti-corruption laws mandating such a condition. Therefore, bail must be determined on the peculiar facts of each case, not on uniform or oppressive restrictions.

6. Judicial Precedent, settled by the Hon'ble Supreme Court has consistently disapproved liability-based surety conditions, declaring them ultra vires. Reliance is placed on *Shamraiz Khan vs The State*

(2000 SCMR 157), *Syed Muzaffar Ali vs Chairman NAB* (2016 P.Cr.L.J 1183), *The State v. Abdul Khaliq* (PLD 2011 SC 554), *Muhammad Shafi v. Muhammad Raza* (2008 SCMR 329), *Javed Iqbal vs The State* (2023 SCMR 401), *Tallat Ishaq vs NAB* (PLD 2019 SC 112), *Maqbool Ahmed Mahessar vs NAB* (2021 SCMR 1166), and *Hidayatullah Khan* (PLD 1949 Lahore 1).

7. Looking to the jurisprudence developed within the NAB statutory hierarchy, the concept of restricting an accused to furnish surety equivalent to the total criminal liability value has become obsolete and stands abandoned by the superior courts. The settled law recognizes that bail is not a mechanism for recovery nor a substitute for punishment, but rather a concession to secure attendance during trial while preserving the presumption of innocence. There is hardly any precedent exists within the statutory sphere of anti-corruption laws that mandates or followed to require that surety equivalent to the alleged liability or valuation of the criminal charge, which remains to be adjudicated ultimately by the trial Court. Any such condition is ultra vires of established bail principles and inconsistent with constitutional guarantees of liberty and fairness.

8. From the dictum laid down in *Muhammad Taimur vs Chairman NAB* (2023 SCMR 1093), it is clear that bail cannot be treated as punishment nor subjected to unreasonable or excessive conditions that render the concession ineffective. The Supreme Court emphasized that the presumption of innocence remains until conviction, and the primary purpose of bail is to secure attendance of

the accused during trial while safeguarding their fundamental right to liberty. Conditions imposed under Section 499 Cr.P.C. must be proportionate and not oppressive, as unjustified incarceration burdens both the individual and the State.

9. In view of the above, the restriction requiring the accused to furnish surety equivalent to the alleged liability, in addition to sureties of Rs.500,000/- each, is set aside. The bail condition is modified to the extent that the accused shall furnish two sureties of Rs. 500,000/- each, as originally fixed by the trial Court.

10. **Application stands disposed of accordingly.**

**J U D G E**

Ahmed/Pa

