

IN THE HIGH COURT OF SINDH, KARACHI

**Before:**

**Justice Muhammad Saleem Jessar**

**Justice Nisar Ahmed Bhanbhro**

**CONST. PETITION NO.D-5049 OF 2025**

*(Abdul Rasheed v. The Chairman, NAB & Ors. )*

Petitioner : Through Ms. Naheed, Advocate

Respondents : Through Mr. Moazam Ali Soomro,  
Special Prosecutor, NAB

**Date of hearing and order: 27.02.2026**

**ORDER**

**NISAR AHMED BHANBHRO, J.** Through this petition, petitioner has challenged the order dated 25.09.2025 (**impugned order**) passed by the learned Accountability Court No.IV, Karachi in Reference No.18 of 2017 (Re: State - v - M/s. Shayan International and Others), whereby an application seeking withdrawal of caution placed under section 23 of the National Accountability Ordinance, 1999 (hereinafter referred to as "NAO, 1999") against Petitioner's properties was declined .

2. Learned counsel for the petitioner contended that the petitioner was arrayed as an accused in the above-referred Reference and, during the pendency of the said Reference, he filed an application under Section 25-b of the "NAO, 1999". The application was approved upon payment of the liability, the petitioner was released from the Reference, however deemed to have been convicted under Section 15 of the "NAO, 1999". She next contended that during the investigation process a notice of caution was issued against the properties of petitioner by National Accountability Bureau (NAB) by invoking the provisions Section 23 of the "NAO, 1999" and despite being discharged from the Reference the said caution has not been lifted. Petitioner sent request to NAB but to no fruit, therefore,

moved an application before the trial Court which was declined vide the impugned order. She contended that the impugned order was non speaking in nature. She contended that on discharge from reference, the caution placed on the property of petitioner stood lifted. She further contended that section 23 of the "NAO, 1999" stood omitted from the law pursuant to the recent tweaks in the NAO, 1999, having a retrospective effect, therefore, action on the part of NAB was tantamount to continued infringement of the rights of Petitioner. She lastly prayed to allow this petition.

3. Controverting the submissions, learned Special Prosecutor, NAB, contended that the petitioner entered into plea of bargain, which was approved by Trial Court. He contended that on approval of plea of bargain Petitioner was deemed to have been convicted as defined under Section 15 of the "NAO, 1999". He next contended that on conviction Petitioner was debarred from availing any financial facilities under the law for a period of ten years, which period has not yet been completed. He further contended that amendment in the NAB Laws did not apply to the judgments and orders passed by Court of Law. Petitioner was convicted by the Trial Court, therefore, benefit of amendment through which section 23 stood omitted, was not available to the Petitioner. He argued that the learned trial Court passed the impugned order after properly appraising the material on record, thus did not require interference by this Court. He prayed to dismiss the Petition.

4. Heard arguments, perused the material made available before us on record.

5. The crux of the controversy involved in the present case is that the petitioner was arrayed as accused in Reference No 18 of 2017 filed before Accountability Court Karachi. Petitioner was the proprietor of M/s. Shayan International, and during the investigation, NAB placed properties of Petitioner under caution by exercising powers conferred under section 23 of the "NAO, 1999". During pendency of reference, Petitioner applied for a plea of bargain under section 25 - b, which was accepted by NAB and approved by the Trial Court vide order dated 09.07.2019. Petitioner was discharged from reference, however he was deemed to have been convicted under Section 15 of the "NAO, 1999". Petitioner moved an application to NAB through his Counsel for removal

of the caution but without success, therefore, he filed an application before Learned Trial Court, which too was declined vide impugned order dated 25.09.2025. Petitioner's application for removal of the caution was declined on the ground that on release from reference through a plea of bargain, Petitioner was deemed to have been convicted under Section 15 of the NAO, 1999, and stood debarred from certain rights for a period of ten years and said period had not yet completed, therefore application was premature. Before proceeding further it would be convenient to reproduce below the para-5 of the impugned order dated 25.09.2025, to understand the reasons that weighed the Trial Court to refuse to exercise its jurisdiction:

*"Admittedly, as per Section 15 of NAO, 1999, applicant was disqualified for a period of 10 years from the date of P.B. order dated 09.07.2019, which period has not been completed therefore, application in hand cannot be considered at this stage, which is hereby dismissed being not maintainable."*

6. Having gone through the order, wherein it is held that on account of entering into plea of bargain accused was not entitled to manage his properties until the expiry of statutory period of ten years envisaged under section 15 of the NAO, 1999. The interpretation so made by the trial court appears to be contrary to the provisions of law, as such, it would be essential to clarify that on approval of plea of bargain under section 25 - b of the "NAO 1999", the accused stands discharged and besides loses some of his normal rights, embodies in section 15 of the "NAO, 1999". For the sake of convenience section 25 of the NAO, 1999 is reproduced below:

25. **Voluntary return and plea bargain.**— (a) *Notwithstanding anything contained in section 15 or in any other law for the time being in force, where a holder of public office or any other person, prior to the authorization of investigation against him, voluntarily comes forward and offers to return the assets or gains acquired or made by him in the course, or as the consequence, of any offence under this Ordinance, the Chairman NAB may accept such offer and after determination of the amount due from such person and its deposit with the NAB discharge such person from all his*

*liability in respect of the matter or transaction in issue: Provided that the matter is not sub judice in any court of law.*

*(b) Where at any time after the authorization of investigation, before or after the commencement of the trial or during the pendency of an appeal, the accused offers to return to the NAB the assets or gains acquired or made by him in the course, or as a consequence, of any offence under this Ordinance, the Chairman, NAB, may, in his discretion, after taking into consideration the facts and circumstances of the case, accept the offer on such terms and conditions as he may consider necessary, and if the accused agrees to return to the NAB the amount determined by the Chairman, NAB, the Chairman, NAB, shall refer the case for the approval of the Court, or as the case may be, the Appellate Court and for the release of the accused;*

*Provided that statement of an accused entering into plea bargain or voluntarily return shall not prejudice case of any other accused: Provided further that in case of failure of accused to make payment in accordance with the plea bargain agreement approved by the Court, the agreement of plea bargain shall become inoperative to the rights of the parties immediately.*

*[(ba) Where an accused challenges validity of order approving plea bargain or it comes to the knowledge of the Court otherwise that the plea bargain was a result of duress, coercion or any other illegal pressure exerted on the accused during the course of inquiry or investigation, the Court after hearing both the parties may recall the approval of plea bargain to the extent of that accused.*

7. It is deducible from the above provision of law, that an accused facing investigation, or trial or on his conviction during the pendency of an appeal, when offers to return to the NAB the assets or gains acquired or made by him in the course, or as a consequence, of any offence under the “NAO, 1999”, the Chairman, NAB, may, in its discretion, after taking into consideration the facts and circumstances of the case, accept the offer on such terms and conditions as he may consider necessary, and if the accused agrees to return to the NAB the amount so determined, the

Chairman, NAB, shall refer the case for the approval of the Court, or as the case may be, the Appellate Court and for the release of the accused. However through amendment Act No XI of 2022 by inserting sub section (ba), the legislation has made it clear that such plea of bargain should be voluntary and in an event if it is established that plea of bargain was obtained through duress, coercion or any illegal pressure exerted on accused the court may recall its approval. It is further pertinent to notice that Section 25 in itself does not provide for any conviction in case an accused enters into plea of bargain. The consequences of approval of plea of bargain have been articulated in section 15 of the "NAO, 1999", which reads as follows:

***15. Disqualification to contest elections or to hold public office.-***

*(a) Where an accused person is convicted of an offence under section 9, of this Ordinance he shall forthwith cease to hold public office, if any, held by him and further he shall stand disqualified for a period of ten years, to be reckoned from the date he is released after serving the sentence, for seeking or from being elected, chosen, appointed or nominated as a member or representative of any public body or any statutory or local authority or in service of Pakistan or of any Province:*

*Provided that any accused person who has availed the benefit of section 25 shall also be deemed to have been convicted for an offence under this Ordinance, and shall forth with cease to hold public office, if any, held by him and further he shall stand disqualified for a period of ten years, to be reckoned from the date he has discharged his liabilities relating to the matter or transaction in issue, for seeking or from being elected, chosen, appointed or nominated as a member or representative of any public body or any statutory or local authority or in service of Pakistan or of any Province.*

*(b) Any person convicted of an offence under section 9 of this Ordinance shall not be allowed to apply for or be granted or allowed any financial facilities in the form of any loan or advances or other financial accommodation by any bank or financial*

*institution owned or controlled by the Government for a period of 10 years from the date of conviction."*

8. The bare reading of the above provision of law makes it crystal clear that an accused on his conviction for the charge under section 9 and release under section 25 loses some of the normal rights. Release of an accused on approval of plea of bargain under section 25, is deemed as a conviction as defined under Section 15 the "NAO, 1999". Section 15 in itself places a distinction in case of the conviction under section 9 and release under section 25. In the case of former, the convict shall forthwith cease to hold public office, if any, held by him and further he shall stand disqualified for a period of ten years, to be reckoned from the date he is released after serving the sentence, for seeking or from being elected, chosen, appointed or nominated as a member or representative of any public body or any statutory or local authority or in service of Pakistan or of any Province. The convict shall not be allowed to apply for or be granted or allowed any financial facilities in the form of any loan or advances or other financial accommodation by any bank or financial institution owned or controlled by the Government for a period of 10 years from the date of conviction. In the case of latter, the accused who has availed the benefit of section 25 shall be deemed to have been convicted for an offence under the "NAO, 1999", and he shall forth with cease to hold public office, if any, held by him and further he shall stand disqualified for a period of ten years, to be reckoned from the date he has discharged his liabilities relating to the matter or transaction in issue, for seeking or from being elected, chosen, appointed or nominated as a member or representative of any public body or any statutory or local authority or in service of Pakistan or of any Province. Plain reading of ,the Section 15 makes it clear that by availing the benefit of section 25 and on conviction under plea of bargain, the accused shall not be debarred from availing financial facilities.

9. A careful examination of the record reveals that the petitioner sent a request to NAB by legal notice dated 12.08.2025 through his Counsel seeking withdrawal of restrictions imposed upon his properties under section 23 of the "NAO, 1999", which remained unheeded. Petitioner

therefore, sought indulgence of the trial court. It is important to notice at the time of filing application with NAB and Trial Court Section 23 of the "NAO, 1999" stood omitted through Act No. XI of 2022 dated 22.06.2022 and was no more part of the statute. When confronted to above legal position, learned Special Prosecutor NAB contended that Petitioner was a convict under section 15 of the "NAO, 1999"; the amendments in the "NAO, 1999" were after the conviction of the Petitioner, therefore, did not affect the status of Petitioner, and he cannot be benefited from the amended provisions of law. The contention of the Special Prosecutor to the extent of impact of amendment on judgments and orders passed by the Courts under the "NAO, 1999" prior to the said amendments is correct, as the judgments and order passed by Court of law became a closed and past transactions, thus cannot be reopened, through legislation. However this interpretation did not hold good for the case of Petitioner. Section 23 of the "NAO, 1999", as it stood prior to amendments, placed restraint upon the transfer of property of an accused facing inquiry, investigation under the "NAO, 1999". For the academic purpose the said provision of law is reproduced below:

*"23. Transfer of property void. (a) Notwithstanding anything contained in any other law for the time being in force after the Chairman NAB has initiated an inquiry or investigation into any offence under this Ordinance, alleged to have been committed by an accused person, such accused person or any relative or associate of accused person or any other person on his behalf, shall not transfer by any means whatsoever, or create a charge on any property owned by him or in his possession, while the inquiry, investigation or proceedings are pending before the NAB or the Court; and any transfer of any right; title or interest or creation of a charge on such property shall be void.*

*(b) Any person who transfers, or creates a charge on property in contravention of sub-section (a) shall be punishable with rigorous imprisonment for a term, which may extend to three years and shall also be liable to fine not exceeding the value of the property involved;*

*Provided that such transfer of any right, title or interest or creation of a charge on such property shall not be void if made with*

*the approval of the Court, subject to such terms and conditions as the Court may deem fit."*

10. The Chairman NAB was empowered through above provisions of law to put a restraint on transfer of property of an accused involved in the inquiry, investigation pertaining to an offence under the "NAO, 1999". The NAB in compliance, thereof, issued a caution against the properties of accused/petitioner, however, legislation deemed these provisions inappropriate, therefore, omitted. The legislation through Act No. XI of 2022 introduced amendments to the NAO, 1999 with retrospective effect; the amended act provides that *"It shall come into force at once and shall be deemed to have taken effect the from the commencement of the NAO, 1999."* Section 23 of the NAO, 1999, as such, pursuant to the retrospective applicability of the amendment shall be treated to have never existed in the law. Any action taken by the NAB in terms of Section 23 of the "NAO, 1999" thus shall be deemed as *non est*, meaning thereby that the action so taken did not exist any more. Thus no justification exists to continue the caution placed by NAB on the petitioner's property, the impugned order dated 25.09.2025, therefore, warrants interference by this Court to exercise the powers of judicial review conferred under article 199 of the Constitution of Islamic Republic of Pakistan, of 1973.

11. For the forgoing reasons, this petition is allowed. The impugned order dated 25.09.2025 stands set aside, as a result thereof, the application of the Petitioner is granted and the note of caution so placed by NAB against the property of petitioner is removed. NAB shall notify such removal of restriction within ten days from the date of this order, under intimation to this Court.

Office to send copy of this order to the respondents for compliance.

**JUDGE**

**JUDGE**

**HEAD OF CONST.BENCHES**

**Approved for reporting**