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IN THE HIGH COURT OF SINDH, KARACHI

Before Mr. Justice Ahmed Ali M. Shaikh
Mr. Justice Mohammad Karim Khan Agha

C.P. No. D-1987 of 2016.

Saifullah Bullo

V.

Chairman, National Accountability Bureau.

Date of hearing	29-09-2016
Date of Order	01-10-2016
Petitioner:	Through Mr. Anwar Mansoor Khan Advocate
Respondents:	Through Mr. Muhammad Altaf ADPGA NAB

ORDER

Muhammad Karim Khan Agha, J. The Petitioner has applied for post arrest bail in National Accountability Bureau (NAB) Reference No.32/2015 State V Saifullah Bullo (the petitioner). Earlier by order dated 08-03-2016 this Court had recalled the ad interim pre arrest bail which had been granted to the petitioner and thereafter the petitioner was arrested and taken into custody hence this petition for post arrest bail.

2. The brief facts of the case as per aforesaid reference are that the NAB on complaint opened an inquiry which was later converted into an investigation which lead to the filing of the aforesaid reference into the embezzlement of government funds by the officers/officials of Sindh Workers Welfare Board. During the course of the investigation it was revealed that the petitioner, who was Deputy Secretary (Admin) at the relevant time, purchased office stationery and furniture amounting to Rs.4.3 million without completion of codal formalities on fake quotations. The petitioner had misused his authority by issuing ambiguous work orders without mentioning specifications for supply of items in violation of PPRA rules which caused a loss of RS1, 292,110 to the national exchequer.

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3. During the course of the investigation a market survey revealed that the furniture which was purchased by the petitioner was at exorbitant rates which further contributed to the loss to the national exchequer.

4. As a result of the evidence collected during the investigation the NAB filed reference No.32/2015 on 6-10-15 before the Administrative Judge Accountability Courts Karachi against the petitioner under section 9(a) of the National Accountability Ordinance 1999 (NAO) as he had committed the offense of corruption and corrupt practices through his misuse of authority.

5. Learned counsel for the petitioner submitted that the petitioner only played a minor role in any potential embezzlement, that it was a case of further inquiry and most of the misappropriated amount had already been recovered and since he had already spent approximately 6 months in jail and no substantial progress had been made in the case he was entitled to be enlarged on bail especially if he was able to deposit the amount which was his share of the liability with the Court. In this respect he relied on the case of **Syed Muzaffar Ali V Chairman NAB** (SBLR 2016 1569).

6. Learned ADPGA for NAB half heartedly opposed the petition for post arrest bail and maintained that there was sufficient evidence to link the accused to the offense. However he conceded that his stance would soften if the petitioner paid the amount of his liability into Court so that NAB's position in respect of financial loss was preserved

7. We have perused the record and considered the relevant law and the submissions of learned counsel at the bar.

8. As this is a bail matter we have only made a tentative assessment of the material before us which shall not prejudice either party at trial which reference must be decided by the trial Court based on the evidence brought before it.

9. As is well known the conditions for the grant of pre arrest bail and post arrest bail are much different. In this petition for post arrest bail we have observed that the petitioner has been behind bars for approximately 6 months and yet, despite him being the lone accused, only one out of 26 PW's have recorded their evidence. This is an indication that this may be quite a protracted trial. We have also noted, and as confirmed by the ADPGA NAB, that the amount of the embezzled money attributable to the petitioner is only approximately RS 920,245 since some of the loss caused to the Exchequer has already been recovered from the beneficiary by way of voluntary return under S.25 of the NAO.

We have of course also considered the fact that the NAO is a penal statute which may lead to the imprisonment of the petitioner on conviction.

10. In our considered view, however, bearing in mind that it is the primary mandate of the NAB to inquire into cases of mega corruption in the context of that mandate we consider the amount allegedly embezzled by the petitioner to be relatively small. We are also mindful of the fact that despite there being only one accused (the petitioner) there appears to have been no substantial progress in the trial over the last 6 months. It may be that there is sufficient evidence to connect the petitioner to the offense but based on the amount involved, which this court can secure through this order, the potential long duration of the trial, the fact that the petitioner is a Government servant who is unlikely to abscond and that no allegation has been made that he may interfere with witnesses or attempt to tamper with evidence we consider that the petitioner has made out a case for post arrest bail.

11. Accordingly the petitioner is admitted to post arrest bail subject to providing solvent surety in the sum of RS.300,000 (three lacs) and PR bond in the like amount subject to the satisfaction of the Nazir of this Court and also depositing with the Nazir of this Court RS 920,245 which shall be invested in any profitable Government scheme until such time as the reference is decided which may then be returned to the petitioner if he is acquitted in the reference.

12. These are the reasons for our short order dated 29-09-2016

Dated: 03-10-2016.

13. The petitioner is admitted to post arrest bail subject to providing solvent surety in the sum of RS.300,000 (three lacs) and PR bond in the like amount subject to the satisfaction of the Nazir of this Court and also depositing with the Nazir of this Court RS 920,245 which shall be invested in any profitable Government scheme until such time as the reference is decided which may then be returned to the petitioner if he is acquitted in the reference.

14. These are the reasons for our short order dated 29-09-2016.

JUDGE