

IN THE HIGH COURT OF SINDH AT KARACHI

Present:
Mr. Justice Omar Sial
Mr. Justice Muhammad Hasan (Akber)

Constitutional Petition No. D – 392 of 2025
[Syed Masood Hyder Jaffery vs. Govt. of Pakistan & Others]

For Petitioner : Mr. Amer Raza Naqvi,
Advocate

For Respondent No.1 : Mr. Noor Muhammad Dayo,
Assistant Attorney General

For Respondent No.2 : Syed Khurram Kamal,
Special Prosecutor NAB

For Respondents No.3,4&5 : Mr. Kashif Ali, Advocate

Date of Hearing : 08.04.2025

Date of Decision : 05.05.2025

J U D G M E N T

Omar Sial, J: The petitioner was one of the accused in Reference No. 13 of 2016 filed by NAB. 12.03.2024, the case was transferred from the Accountability Courts to the Anti-Corruption Court. While the case was in NAB's jurisdiction, upon NAB's request, the petitioner's name was put on the Exit Control List, and two of his accounts were also frozen. Through this petition, the petitioner has prayed that his name be removed from the Exit Control List and the two bank accounts be unfrozen.

2. We have heard the learned counsel for the petitioner, the learned Assistant Attorney General, the learned Special Prosecutor, NAB, and the representative from Habib Bank Limited. Our observations and findings are as follows.

3. Learned Special Prosecutor NAB confirmed that the Reference against the petitioner had been transferred to the Anti-Corruption Court. He also acknowledged that the petitioner's name was put on the ECL and his accounts frozen on NAB's written directions during the period the Reference was pending before the Accountability Court. He therefore, and rightly, showed little interest in whether the relief sought by the petitioner was given to him. The learned Assistant Attorney General also believed the requisite relief may be provided. Similarly, Habib Bank's representative confirmed that the Bank has nothing to do with the case and will follow the court's orders.

4. With much respect, we hold a different view from that of the counsels who have appeared. The Accountability Courts may have lost jurisdiction because of the amendment, yet the case against the petitioner is still pending before the learned Anti-Corruption Court. The problem that persons accused by NAB are facing is that their cases were transferred to the Anti-Corruption Court after the various amendments made to the legislation, yet it seems that the cases have not reached the concerned Court. Consequently, people like the petitioner find themselves in limbo and are constrained to file petitions in this Court seeking relief. We have been informed, however, that the Sindh Government vide Notification No. SORI(SGA & CD)2-14/89 dated 08.04.2025 has constituted a committee to determine, amongst others, the fate of the cases transferred from the Accountability Courts to the Anti-Corruption Courts. We believe that the learned trial court itself should regulate the custody of the accused in the first instance, and hence the current application seeking removal of the petitioner's name from the Exit Control List should be made before the trial court. Similarly, whether or not the bank accounts frozen earlier should be unfrozen is also a question to be first determined by the trial court.

5. It appears that the decision on whether or not the case against the petitioner and others will be pursued by the government is imminent after the formation of the Committee. The petitioner should wait till the decision of the Committee. If the Government decides not to pursue the case, the petitioner may approach this Court for the relief he seeks. If the case continues before the Anti-Corruption Court, the petitioner should approach that court with the relief he seeks.

6. Petition is disposed of in the above terms.

JUDGE

JUDGE