

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

C.P No.D-2143 of 2017

C.P No.D-2281 of 2017

C.P No.D-2069 of 2019

Petitioner(s)	:	Mr. Javed Ahmed Qazi, Advocate
Respondent	:	NAB through Mr. Jangu Khan, Special Prosecutor NAB along with I.O Adnan Hafeez Abbasi, Deputy Director NAB Karachi.
Respondent	:	Federation of Pakistan through Mr. Ashfaque Nabi Qazi, Asst. Attorney General for Pakistan
Date of hearing & order.	:	24.06.2021

ORDER

In respect of petitioners in C.P No.D-2143 of 2017 namely Nisar Bano, Ms. Maryam, Mrs, Safooran Sahar and Mrs. Sanoobar, who are present on interim pre-arrest bail, the matter has been heard and kept for order to be passed during course of the day.

However, the connected petition being C.P No.D-2281 of 2017 shall be detached from C.P No.D-2143 of 2017 and 2069 of 2019 only to the extent of the petitioner Zulqarnain Shaikh, who is also present on interim pre-arrest and same be put-up for hearing on 14.07.2021 as an arrest warrant has been issued against him by the Chairman NAB. So far as the petitioner Abdul Mueed Shaikh in the same petition, who is also present on interim pre-arrest bail, is concerned, order will also be passed during course of the day.

As regard the petitioner Mushtaque Ahmed Sheikh, who has applied for post arrest bail in C.P No.D-2069 of 2019, he has been

arrayed as main accused in NAB Reference No.12 of 2017 in a case of making assets beyond his known source of income along with six other co-accused. He has applied for post arrest bail solely on the ground of hardship.

We have heard the learned counsel for the petitioner as well as Special Prosecutor NAB along with Investigating Officer as well as Asst. Attorney General who have opposed the grant of post arrest bail to petitioner Mushtaque Ahmed Shaikh on hardship ground as according to them the prosecution has not caused any delay in the trial and it is not a case of hardship.

The petitioner Mushtaque Ahmed Shaikh was arrested on 10.03.2017 and has so far spent four (04) years and three (03) months in custody. There has been no delay in the trial either on his part or the part of his counsel. So far the prosecution has examined around 40 PWs, however, according to Special Prosecutor NAB and I.O, 53 PWs remain to be examined. There are seven (07) accused in this case and each of them will be entitled to cross examine each of the 53 witnesses yet to be called through their own counsel, which will take a considerable period of time. It is also noted that the petitioner is a man of 67 years of age with serious medical issues including heart problem, is a diabetic and also suffers from hypertension.

In the case of **TALLAT ISHAQ V. National Accountability BUREAU & OTHERS** reported in (PLD 2019 Supreme Court 112), no doubt it was made harder for accused in NAB cases to be granted bail on hardship ground. However, the case of Tallat Ishaq (Supra) did not exclude completely the grant of post arrest bail on hardship ground. The grant of such bail was left upon the discretion of the Court based

on the particular facts and circumstances of each case. We note that maximum conviction / sentence in a case under National Accountability Ordinance, 1999, is 14 years. In this case the petitioner has already spent four (04) years and three (03) months in jail (not including remission) and where the trial realistically is not in sight of completion in near future. He might if not granted bail on hardship ground today have to spend around seven (07) years in jail which would not even include remission since the time of his arrest before the completion of the trial which might even lead to his acquittal.

For the reasons mentioned above, we hereby grant post-arrest bail to the petitioner Mushtaque Ahmed Shaikh on hardship ground subject to his furnishing solvent surety / security in the sum of Rs.20,00,000/- [Rupees Twenty Hundred Thousand] only and P.R bond in the like amount to the satisfaction of learned trial Court. The petitioner Mushtaque Ahmed Shaikh shall ensure that he will attend the trial proceedings on each and every date and does not cause any delay in the conclusion of the trial. The Secretary Ministry of Interior, Pakistan is directed to place the name of the petitioner Mushtaque Ahmed Shaikh on ECL. A copy of this order shall be sent by fax to Secretary Ministry of Interior, Pakistan for compliance.

The petition being C.P No.D-2069 of 2019 stands disposed of in the above terms.