

IN THE HIGH COURT OF SINDH AT KARACHI

Before: Mr. Justice Ahmed Ali M. Shaikh, CJ.
Mr. Justice Mohammad Karim Khan Agha, J.

CPD.No's. along with Petitioners

1.C.P. No. D-4070 of 2017

1. Fida Hussain s/o Abdul Sattar.
2. Khadim Hussain s/o Abdul Qadir.
3. Abdul Latif s/o Abdul Sattar Koondhar.
4. Muhammad Mushtaque s/o Muhammad Rafique.
5. Suhraab Khan s/o Ghulam Shabir.
6. Mukhtiar Ali s/o Muhammad Soomar Mangrio.
7. Naseer Ahmed s/o Muharam Ali Mangrio.
8. Sajid Ali s/o Abdul Wahid Lanjar.
9. Shafique Ahmed s/o Abdul Kabeer Mangrio.
10. Nazeer Ahmed s/o Muhammad Ramzan.
11. Munawar Ali s/o Nabi Bux Lalbani.
12. Asghar Ali s/o Muhammad Yousuf Mangrio.
13. Mohammad Suhail Khan s/o Nasrullah.
14. Ghulam Shabbir s/o Ali Bux Mangrio.
15. Sher Muhammad s/o Gul Muhammad.
16. Asghar Ali s/o Mir Khan.
17. Masood Ali s/o Ghulam Shabbir.

2. C.P. No.D-4105 of 2017

Qurban Ali Sahito s/o Muhammad Yousif

3. C.P. No.D-4103 of 2017

1. Iqbal Channar s/o Moula Dad.
2. Abdul Rasheed @ Rasheed Mangrio s/o Wali Muhammad.
3. Khalid Hussain Khushk s/o Ali Jan.
4. Ghous Bux Soomro s/o Saleh Soomro.
5. Allay Wasayo Mangrio s/o Bhale Dino Mangrio.
6. Gulsher Mangrio s/o Dodo Khan Mangrio.
7. Juman Halepoto s/o Muhammad Urs.
8. Haji Azam Chandio s/o Faqir Muhammad.
9. Muhammad Din Gopang s/o Hussain Bux.

4. C.P. No.D-4104 of 2017

1. Saifullah s/o Khan Muhammad Awan.
2. Rafique Ahmed s/o Muhammad Chuttal.
3. Zahid Hussain Ujjan s/o Salahuddin.

5. C.P. No.D-4022 of 2017

1. Sohrab s/o Khan Muhammad.
2. Ghous Bux s/o Dilawar Khan.
3. Muhammad Malook s/o Nathoo Khan.

Counsel for the Petitioners.

1. Mr. Achar Khan, Advocate for petitioners in C.P. No.D-4070/2017 (except petitioner Khadim Hussain), 4105/2017, 4103/2017 and 4104/2017
2. Mr. Abdul Sattar Lurhani, Advocate in C.P. No.D-4022/2017.

Counsel for the Respondents.

Mr. Muhammad Zubair Malik, Special Prosecutor, NAB alongwith I.O. Diljeet Lal.

Date of hearing: 15.08.2017

Date of order: 15.08.2017

ORDER

Mohammed Karim Khan Agha, J. Through the above mentioned petitions, the above mentioned petitioners (the petitioners) were granted ad interim pre arrest bail by this Court vide orders dated 14.10.2016, 15.12.2016, 13.12.2016, 13.12.2016 and 28.10.2016 respectively in connection with corruption inquiries/investigations being carried out against them by the National Accountability Bureau (NAB) under the National Accountability Ordinance 1999 (NAO). By this one composite order we propose to dispose of all the above mentioned petitions.

2. The brief facts of the case as per interim progress report filed by the NAB dated 15-08-2017 are that instant inquiry / investigation pertains to Education Department, Irrigation Department and Health Department District Naushero Feroze regarding illegal appointments of teaching and non-teaching staff in Primary, Secondary and Higher Secondary Schools in Education Department District Naushero Feroze, Tube-well Division and Moro Division, Irrigation Department District Naushero Feroze and illegal appointments in Health Department District Naushero Feroze. According to the NAB in essence all the petitioners were appointed illegally against the rules without following any of the codal formalities and contrary to merit in connivance with District Accounts Office District Naushero Feroze.

3. We have heard the learned counsel for the parties and perused the material placed on record.

4. In our considered view all the petitioners are entitled to the confirmation of their ad interim pre arrest for the following reasons; that no reference has yet been filed by the NAB authorities against the petitioners despite the fact that the inquiry was firstly authorized on 23.10.2013, secondly on 10.02.2014, thirdly on 14.04.2016 and lastly the inquiry was upgraded to investigation on 21.4.2017 (almost 4 years after the initial inquiry

was opened) and the NAB are seeking 4 months more time in order to complete the same which delay is not only in violation of their own SOP's but also shows a complete lack of seriousness on their part and unfairness on the petitioners by keeping the sword of Damocles hanging over their heads for so long; that all the petitioners are of a low level and are in most cases alleged beneficiaries of jobs such as teachers, chowkidars and clerks and it appears that no serious efforts have been made by the NAB to investigate the appointing authorities, the so called "high ups" or who could be considered as the main accused in the case; that when the IO was confronted with this discriminatory conduct on his part in Court the IO had no explanation and this in itself could be deemed as malafide conduct on the part of NAB; that according to NAB's interim report the potential loss caused by appointing 44 of the accused (including the petitioners) comes to approx. Rs.4 Crores or a maximum of approx 9 lacs each (which would probably be even less based on NAB's own criteria for working out liability based on a plea bargain under the NAO) which is of a relatively minor amount keeping in view NAB's primary objective of conducting mega corruption cases where the loss of billions of rupees to the national exchequer is involved; that most of the material against the petitioners is in documentary form and is in the possession of NAB and thus there is no chance of the petitioners interfering with the same; that the petitioners are no longer required for investigation. Even otherwise NAB through their interim progress report have not been able to prima facie produce any material to link the petitioners to the offense for which they have been charged.

5. Thus, for all the above reasons the ad interim pre arrest bail granted to all the petitioners vide the above mentioned orders of this court stand confirmed on the same terms and conditions and all the above mentioned petitions accordingly stand disposed of.