

## IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR

Constitutional Petitions No.D – 337, 338, 339, 340, 341, 342, 343, 345, 346, 347, 463, 464, 465, 467, 468, 469 of 2024 and Cr. Misc. Application No.D – 46 and 47 of 2024

Present:

**Mr. Amjad Ali Bohio, J.**

**Mr. Muhammad Jaffer Raza, J.**

Petitioner: The State, *through* Chairman National Accountability Bureau, Shahrah-e-Jamhuriat, Sector G-5/1, Islamabad *through* M/s Mujeeb-ur-Rehman Soomro and Adnan Arshad Jatoi, Special Prosecutors for petitioners/NAB

Private Respondents: Ijlal Mustafa and others *through* M/s Muhammad Zubair Malik, Fareed Ahmed Daudpoto, Syed Naimat Ali Shah, Israr Ahmed Shah, Advocates.

Official Respondent: Learned Accountability Court-III, Sukkur *through* Syed Naveed Ahmed Shah, Deputy Attorney General

Date of hearing: 02.02.2026

Date of decision: 02.02.2026

### **O R D E R**

**Muhammad Jaffer Raza, J.**- Learned counsel for the petitioner/applicant has filed the present Constitution Petitions under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, as well as Criminal Miscellaneous Applications under Section 497(5)<sup>1</sup> of the Code of Criminal Procedure, 1898, challenging the impugned consolidated bail granting orders dated 26.02.2024 (and in connected matters dated 01.02.2024, 02.02.2024 and 21.08.2024) passed by the learned Accountability Court-III, Sukkur and the learned Administrative Judge, Accountability Courts, Sukkur, whereby pre-arrest and post-arrest bail applications

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<sup>1</sup> (5) A High Court or Court of Session and, in the case of a person released by itself, any other Court may cause any person who has been released under this section to be arrested and may commit him to custody.

filed by the accused/private respondents, namely Imran Khan Kamboh son of Mehrban Khan by caste Kamboh, Fayaz Hussain son of Ghulam Sarwar, Bashir Ahmed Magsi son of Ghulam Rasool by caste Magsi, Sajjad Ali son of Ghulam Akber Jarwar, Nasibullah son of Muhammad Akber by caste Brohi, Nadeem Zafar son of Zafarullah by caste Brohi, Khalid Hussain son of Ghulam Dastageer by caste Magsi, Amanullah Khan Magsi son of Mir Noorullah Khan by caste Magsi, Ali Raza Khan son of Sohan Khan, Nadir Ali Magsi son of Liaquat Ali by caste Magsi, Ijlal Mustafa son of Chakar Khan by caste Magsi, Aftab Ahmed son of Ghulam Sarwar, Sardar Ali son of Ghulam Ali by caste Mastoi, Imran Ali son of Abdul Razzaque by caste Kamboh, Wajid Ali son of Ali Nawaz by caste Mugheri, Zaheer Abbas son of Muhammad Azeem, Zahid Hussain son of Ghulam Sarwar and Abdul Ghaffar son of Abdul Majeed, arising out of NAB Investigation Unique No. 720333 relating to allegations against Officers/Officials of the Food Department, District Qamber-Shahdadkot and others, were allowed, whereby the learned Accountability Courts confirmed/granted pre-arrest and post-arrest bail to the respondents under Section 9(b) of the National Accountability Ordinance, 1999 read with Sections 498 and 497 Cr.P.C. Being aggrieved and dissatisfied with the said impugned bail granting orders, which are alleged to be illegal, arbitrary, non-speaking and against the facts, law and settled principles, the petitioner/applicant seeks cancellation, recalling and setting aside of the impugned orders.

2. Learned Special Prosecutor for the petitioner/NAB has contended that no case of further enquiry was made out by any of the respondents who were granted post-arrest bail under Section 497, Cr.P.C. In respect of the pre-arrest bails confirmed under Section 498, Cr.P.C., it was contended by the learned Prosecutor

that no mala fide was alleged and, therefore, no case for grant of bail was made out. He has further contended that the bail orders are liable to be cancelled and has, therefore, relied upon the provisions of Section 497(5), Cr.P.C.

3. Conversely, learned counsel appearing for the respondents have jointly contended that no case is made out for cancellation of bail, and that there are glaring discrepancies in the enquiry report which entitle the Respondents to grant of bail. Advancing their arguments further, all the learned counsel have jointly submitted that the reference has already been filed and all the accused persons are regularly appearing before the learned Accountability Court. It was further argued that there is no risk of absconding by any of the accused persons, and all the documentary evidence is available with the prosecution. They have further contended that none of the grounds envisaged under Section 497(5), Cr.P.C., have been made out for cancellation of bail, and neither have any of the respondents misused the concession thereof, as correctly recorded by the bail-granting orders.

4. We do not wish to deliberate on the factual aspects of the contentions advanced by the learned counsel, for the reason that the same may prejudice the trial Court.

5. The grounds for cancellation of bail are set out under Section 497(5), Cr.P.C., as noted above, and have been judicially interpreted by the superior Courts extensively. Reference can be made to the case of *Rab Nawaz v. Shehzad Hassan*, etc.<sup>2</sup>, wherein it has been held as under:

*“4. We have heard the learned counsel for the parties and gone through the record with their able assistance. The scope of the interference to be made by this Court in its appellate jurisdiction, in matters of cancellation of bail are well settled and hardly need*

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<sup>2</sup> Order dated 26.03.2025, passed by Hon'ble Supreme Court of Pakistan in Crl.P.253-L/2025

*reiteration. Bail, though a concession granted to ensure the liberty of an accused pending trial, is not an unqualified right and can be withdrawn, if misused. The law recognizes that bail may be cancelled if the accused, after securing release, engages in conduct that undermines the administration of justice. Such grounds include attempts to influence or intimidate witnesses, tampering with evidence, committing another offence while on bail, or violating conditions imposed by the court. Furthermore, if the accused fails to appear before the court without just cause, or if new facts come to light that materially alter the basis on which bail was granted, the court may justifiably revoke the concession. The guiding principle remains that the liberty of an individual must be balanced against the need to ensure a fair trial and uphold public confidence in the justice system.”.*

(Emphasis added)

6. In light of what has been discussed hereinabove, we find no illegality, infirmity or perversity in the impugned consolidated bail granting orders passed by the learned Accountability Court-III, Sukkur and the learned Administrative Judge, Accountability Courts, Sukkur, warranting interference by this Court in exercise of its constitutional jurisdiction or under Section 497(5) Cr.P.C. The petitioner/applicant has failed to point out any misuse of the concession of bail by the private respondents or the existence of any ground recognized by law for cancellation thereof. Consequently, all the Constitution Petitions as well as the connected Criminal Miscellaneous Applications are devoid of merit and are hereby dismissed, along with all pending applications, with no order as to costs.

7. The present petitions and Crl. Misc. Applications were earlier dismissed after hearing learned counsel for the parties in open Court vide short order dated 02.02.2026, and the foregoing are the reasons in support thereof.

**JUDGE**

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