

IN THE HIGH COURT OF SINDH AT KARACHI

C. P. No. D-5390 of 2015

Present:

Mr. Justice Muhammad Junaid Ghaffar.

Mr. Justice Muhammad Humayon Khan.

Amanullah Solangi ----- Petitioner

Versus

The Province of Sindh & others ----- Respondents

C. P. No. D-4010 of 2015

Karam uddin ----- Petitioner

Versus

Province of Sindh & others ----- Respondents

C. P. No. D-4305 of 2015

Muhammad Hanif ----- Petitioner

Versus

Province of Sindh & others ----- Respondents

C. P. No. D-4229 of 2016

Abdul Nabi ----- Petitioner

Versus

Federation of Pakistan & others ----- Respondents

C. P. No. D-538 of 2017

Sanaullah Abro ----- Petitioner

Versus

Federation of Pakistan & others ----- Respondents

C. P. No. D-4469 of 2016**Zulfiqar Ali ----- Petitioner****Versus****Federation of Pakistan & others ----- Respondents****C. P. No. D-546 of 2017****Abdul Karim Channa ----- Petitioner****Versus****National Accountability Bureau & others ----- Respondents****C. P. No. D-545 of 2017****Muhammad Ishaque Soomro ----- Petitioner****Versus****National Accountability Bureau & others ----- Respondents****C. P. No. D-4843 of 2015****Iqbal Ahmed Khaskheli ----- Petitioner****Versus****National Accountability Bureau & others ----- Respondents****C. P. No. D-917 of 2017****Syed Moeen Qadri ----- Petitioner****Versus****Federation of Pakistan & others ----- Respondents****C. P. No. D-5015 of 2015****Abdul Sattar ----- Petitioner****Versus****National Accountability Bureau & others ----- Respondents**

C. P. No. D-5016 of 2015**Darya Khan Gabol ----- Petitioner****Versus****National Accountability Bureau & others ----- Respondents****C. P. No. D-732 of 2017****Asad Ali Soomro ----- Petitioner****Versus****D. G. NAB & others ----- Respondents****Date of hearing: 30.05.2017.****Date of order: 30.05.2017.**

Petitioners: Through Mr. Munawar Ali Memon, Advocate in C.P Nos. D-5390, 4305, 4010/2015, 4229 & 4469/2016, Mr. Liaquat Ali Khaskheli, Advocate in C.P Nos. D-4843/15, 545/17, 5016/15, 5015/15 and 546/17, Mr. Gulraiz Memon Advocate In C.P. No. D-538/2017.

Respondent: Through Ms. Naheed Parveen DAG and Mr. Yasir Siddiqui Special Prosecutor NAB assisted by Sajjad Ahmed I.O. NAB.

ORDER

Muhammad Junaid Ghaffar, J. Through all these Petitions, the Petitioners seek pre-arrest bail in Reference No. 4/2017 filed before the Accountability Court at Karachi. There are two sets of accused in these Petitions, one are the employees of Town Committee Mirpur Sakro, whereas, the others are Contractors engaged in providing construction services of various nature.

2. The precise allegation against the accused is to the effect that they in connivance with each other misused the funds of the Town

Committee and various payments were made to the Contractors for which either no work was carried out, or wherein the work was carried out, the same was substandard and of low quality.

3. We have heard all the learned Counsel as well as Special Prosecutor NAB and our observations are as under:-

- a) It appears that the Town Committee got various works carried out from the Contractors on quotation basis for works under Rs. 100,000/- in the year 2011, whereas, the inspection which has been relied upon by NAB was carried out in 2015. The nature of work was of maintenance of drainage schemes, street lights, cleanliness, earth filling, cleaning of Jungles and Nalas, Malaria spray campaign etc. etc. In our view inspection carried out in 2015 for ascertaining the nature of these works executed in 2011 can be hardly relied upon by this Court at the time of deciding these bail Petitions. This can only be taken up at the trial stage and therefore, this makes out the case of the Petitioners as of further inquiry
- b) It further appears to be an admitted position that none of the accused was ever called or engaged while carrying out the so-called inspection and were not confronted as to the alleged bad quality of construction work carried out by them. This again makes their case of further inquiry.
- c) It further appears that Petitioner Sanaullah Abro in C.P. No. D-538/2017 was not even posted in the period March 2012 to June 2012 in which period the alleged work was carried out. It is also a matter of record that this Petitioner was not named as an accused by the previous I.O. and subsequently when the matter was assigned to a new I.O. this Petitioner has been implicated in the Reference.
- d) Insofar as the Contractors case is concerned, it again appears that allegation of very less and meager amount has been raised against them, whereas, their case is that if any notice for inspection would have been issued to them, they would have clarified their position.
- e) Much reliance has been placed by the Prosecutor NAB on the report of the Inspection Committee and their 161

Cr.P.C statements; however, on perusal it reflects that in none of the statements they have directly implicated any of the Petitioners, whereas, even otherwise as discussed the report and inspection carried out in 2015 for examining the quality of works carried out in 2011 could be hardly considered at this stage. Even otherwise it is settled law that an expert opinion can only be taken into consideration when such expert has been put to cross examination and confronted with his report / opinion, and therefore mere reliance on these reports cannot be made basis for refusing the concession of bail at this stage.

- f) It further appears from perusal of the investigation report that in respect of some cleaning of underground sewerage lines and main wholes of different TMAs in Mirpur Sakro the case has been made out on a statement of one of the shop keepers who stated that no cleaning work was executed since long. Neither the name of the said shop keeper is stated in the report nor he has been cited as a witness.

4. In view of hereinabove facts and circumstances of these cases, we are of the considered view that the case of all the Petitioners is of further inquiry as discussed hereinabove and therefore, the ad-interim pre-arrest bails granted to all the Petitioners namely Amanullah Solangi in C.P. No. D- 5390/2015 vide order dated 7.9.2015, Karam uddin in C.P. No. D-4010/2016 vide order dated 6.7.2015, Muhammad Hanif in C.P. No. D-4305/2015 vide order dated 23.7.2015, Abdul Nabi in C.P. No. D-4229 /2016 vide order dated 16.8.2016, Sanaullah Abro in C.P. No. D-538 /2017 vide order dated 30.1.2017, Zulfiqar Ali in C.P. No. D-4469/2016 vide order dated 17.8.2016, Abdul Karim Channa in C.P. No. D-546/2017 vide order dated 31.1.2017, Muhammad Ishaq Soomro in C.P. No. D-545/2017 vide order dated 31.1.2017, Iqbal Ahmed Khaskheli in C.P. No. D-4843/2015 vide order dated 21.4.2016, Syed Moeen Qadri in C.P. No.

D-917/2017 vide order dated 15.2.2017, Abdul Sattar in C.P. No. D-5015/2015 vide order dated 22.8.2016, Darya Khan Gabol in C.P. No. D-5016/2015 vide order dated 27.9.2016 and Asad Ali Soomro in C.P. No. D-732/2017 vide order dated 7.2.2017 are confirmed on the same terms.

J U D G E

J U D G E

ARSHAD/