

IN THE HIGH COURT OF SINDH AT KARACHI

C. P. No. D-1555 of 2017

Present:

Mr. Justice Muhammad Junaid Ghaffar.

Mr. Justice Muhammad Humayon Khan.

Kashif Naseer ----- Petitioner

Versus

National Accountability Bureau ----- Respondent

Date of hearing: 20.04.2017.

Date of order: 20.04.2017.

**Petitioner: Through Mr. Amer Raza Naqvi & Afaq
Ahmed Advocates**

**Respondent: Through Mr. Muhammad Altaf Special
Prosecutor NAB.**

ORDER

Muhammad Junaid Ghaffar, J. Through this Petition the Petitioner seeks post arrest bail in Reference No. 53/2016 pending before the Accountability Court at Karachi.

2. The precise allegation in the Reference is to the effect that accused No. 1 Muhammad Munir (absconder) being sole proprietor of M/s Emmar Industries managed to obtain sales tax refund for an amount of Rs. 21.659 million for which he was not entitled. Insofar as present Petitioner is concerned, it is alleged that he being processing officer of sales tax refund failed to exercise his authority and resultantly refunds were obtained.

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

- a) It appears to be an admitted position that at the relevant time when the sales tax refunds were claimed by the principal accused i.e. Muhammad Munir as proprietor of Emmar Industries, a system known as **STARR** (Sales Tax Automated Refund Repository System) initiated by FBR was operative and under this system the officer was required not to raise petty objections and let the process of refund go through expeditiously on the basis of input already recorded in the data through the STARR system. The said system was introduced so as to curtail the discretion being exercised by the officers while objecting to the refunds at the behest and persistent demands of the business community. Ordinarily no officer was required (at least up to the level of the present petitioner) to raise frivolous and minor objections and scrutinize what the STARR system had passed, processed and sanctioned.
- b) Insofar as the data which was fed in the **STARR** system is concerned, there is no allegation in the Reference to that effect nor any such data processing and feeding officer has been implicated.
- c) That a very generalized allegation has been leveled against the present Petitioner, whereas, even otherwise, it appears to be an admitted position that he was not a refund *sanctioning officer* which authority vested in the concerned Assistant Commissioner.
- d) The only allegation against the present Petitioner is to the effect that he deliberately and illegally failed to exercise his authority to prevent the grant of such refund and therefore, misused his authority and processed / recommended for sanction of illegal sales tax refund causing loss to the National Exchequer. However, it is a matter of record that he was not a sanctioning officer but only a processing officer and when analyzed, his duty, vis-à-vis. the **STARR** system; we are of the considered view that his case is of further inquiry as to whether he was really involved in the alleged illegal refund of sales tax.

Moreover, we do not see any specific role assigned to him which again makes his case of further inquiry.

4. In view of hereinabove facts and circumstances of this case, on 20.04.2017 by means of a short order, the Petitioner namely Kashif Naseer was admitted to post arrest bail on his furnishing surety in the sum of Rs. 500,000/- (Rupees five lac) and PR bond in the like amount to the satisfaction of Nazir of this Court. The above are the reasons thereof. Needless to observe that observations hereinabove are tentative in nature and shall not have any effect or influence on proceedings at trial.

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