

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
C.P.No.D-498 of 2019

DATE	ORDER WITH SIGNATURE OF JUDGE
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Date of hearing: 03.09.2019.

Date of decision: 19.09.2019.

Petitioner is present on interim pre-arrest bail.
Mr. Riazat Ali Sahar, advocate for petitioner.
Mr. Jangu Khan Senior Special Prosecutor NAB.
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It is alleged by the NAB authorities that the petitioner being Additional District Accounts Officer, Dadu with rest of the culprits in collusion with each other by preparing fake pension bills / invoices drawn and misappropriated millions of rupees through his agents and caused loss to Government Exchequer to the tune of Rs.736, 894, 685/- for that he was booked and reported upon by way of filing a reference against him before learned trial Court.

2. The petitioner apprehending his arrest in above said reference has sought for pre-arrest bail from this Court by way of instant constitutional petition.

3. It is contended by learned counsel for the petitioner that the petitioner being innocent has been involved in this case falsely by the NAB officials on the basis of statements of approvers, otherwise, the petitioner has nothing to-do with the alleged misappropriation, the case has proceeded to large extent. By contending so, he prayed for grant of pre-arrest bail in favour of

the petitioner on point of malafide. In support of his contention, he relied upon case of ***Abdul Ghaffar and 3 others vs the Chairman, National Accountability Bureau and another (2016 YLR Sindh 403)***.

4. Learned SPP for NAB has opposed to grant of pre-arrest bail to the petitioner by contending that the petitioner by misusing his authority has misappropriated the public money to the tune of millions of rupees against the fake pension bills and invoices through his agents and at least eight witnesses remain to be examined. By contenting so, they sought for dismissal of instant constitutional petition. In support of his contention he relied upon order dated 17.04.2018 passed by Hon'ble Supreme Court of Pakistan in case of ***Muhammad Yousif & others vs Chairman NAB & others (Civil Petition No.259 of 2018)*** and order dated 05.12.2017 passed by this Court, whereby bunch of the petitions were disposed of in (***C.P.D.Nos.630,2185, 2243, 2244 of 2017***).

5. We have considered the above arguments and perused the record.

6. There is no denial to the fact that the petitioner is a public servant and in that capacity was posted as a Additional District Accounts Officer, Dadu. The allegation against him is that he with the rest of the culprits in collusion with each other have drawn and misappropriated millions of rupees of public money to the tune of Rs.736,894, 68/-against fake pension bills and invoices as is evident

of the statements of the approvers. In that situation, it would be premature to say that the petitioner being innocent has been involved in this case falsely by the NAB authorities. By doing so, the petitioner has done what was not expected of him to do being a public servant. No doubt case is proceeded to some extent, but there could be made no denial to the fact that at least eight of the witnesses are yet to be examined by the prosecution which are said to be material. No malafide is apparent of the record, which may justify admitting the present petitioner to extra-ordinary concession of bail in case like the present one by this Court in exercise of its constitutional jurisdiction. There appear reasonable grounds to believe that petitioner is guilty of the offence with which he is charged.

7. In the case of ***Maqsoom Hussain Shah Vs the State (2007 P.Cr.L.J 171)*** it has been held as under:-

“Bail, refusal of---Accused along with his co-accused, who was his close relative, had deprived complainant from Rs.6,00,000 by showing him a plot which was not owned and possessed by his co-accused and by so doing had committed fraud on complainant---Offences for which accused was being charged though did not fall under prohibition clause of S.497, Cr.P.C., but as accused had deprived an innocent person from his life long earning he did not deserve any discretionary relief---Challan had been submitted in the Court against accused---Trial Court, however, was directed to conclude the trial expeditiously.”

8. In case of ***Mehrban Ali Vs. State (2004 SCMR 229)*** it has been held as under:-

Ss.420/467/468/471-- Constitution of Pakistan (1973), Art.185(3)---Bail---Serious allegations of

fraud, forgery and extortion had been levelled against the accused which were not without substance---Complainant had been allegedly deprived from immovable property worth lacs of rupees on the basis of forgery and fake documents allegedly prepared by the accused --- Power of-attorney executed by the complainant in favour of accused had been withdrawn for certain obvious reasons---Prima facie a case against the accused had been made out--- Impugned order passed by High Court cancelling the bail granted to accused by the Sessions Court did not call for any interference--Leave to appeal was refused to accused in circumstances and bail was declined to him accordingly.

9. The case law which is relied upon by the learned counsel for the petitioner is on distinguishable facts and circumstances in that case. The petitioner settled their dispute with KASB Bank and KASB Bank recorded no objection to grant of bail to the petitioner. In the instant case, neither the petitioner has settled his dispute nor anyone has come forwarded to record no objection to grant of bail to him.

10. For what has been discussed above, it could be concluded safely that the petitioner is not found entitled to be admitted to pre-arrest bail, by way of instant constitutional petition, it is dismissed, consequently interim pre-arrest bail granted to him is recalled and vacated.

JUDGE

JUDGE