

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Muhammad Iqbal Kalhoro J.
Mr. Justice Abdul Mobeen Lakho, J.

C.P. No.D-903 of 2022

Shah Rehman Dostay	-----	Petitioner
	Versus	
NAB & others	-----	Respondents

Mr. Altamash Faisal Arab, advocate for petitioner .
Mr. Shahbaz Sahotra, Special Prosecutor NAB a/w Mir Ali Raza
Talpur I.O. NAB.

11.03.2022.

ORDER

MUHAMMAD IQBAL KALHORO J: Against petitioner and co-accused, a reference No.03/2020 was registered by NAB with the allegations that a fake entry No.351 was kept in the record of rights in Deh Jam Chakro, Taluka Manghopir Karachi West in the year 1933 in the name of Allah Dino in respect of 40-00 acres of Government land. Out of which 16-00 acres were purportedly gifted to the petitioner in the year 1991. Allegedly from 16-00 acres, petitioner sold out 4-00 acres to co-accused Suleman and 3-00 acres to Muhammad Liaqat Ali Khan and Ali ur Rehman.

2. Petitioner was arrested in investigation on 08.11.2019, more than 27 months ago; meanwhile in October, 2020, he filed an application for plea-bargain showing his willingness to surrender 9-00 acres which still remained with him. But so far that application has not been decided. Co-accused Suleman through a civil suit has already returned 4-00 acres of land to petitioner which he is also ready to surrender in favour of Government. Co-accused Muhammad Liaqat Ali Khan to whom 3-00 acres were sold out by the petitioner is reportedly in the process of returning the said land to the petitioner. Petitioner's counsel has stated that after that entire 16-00 acres, the petitioner is ready to return to the Government and has filed application for this purpose.

3. In the 27 months, out of 5 witnesses cited in the reference, only one witness has been partially examined by the prosecution after the charge was framed over a year ago. However, meanwhile since co-

accused Ali ur Rehman has been arrested, the prosecution has filed an application for amendment in the charge, therefore, the charge is likely to be amended leading to a fresh start of the trial. There is nothing on record to show that the petitioner in any manner has been instrumental in causing delay in conclusion of the trial. Investigation is over and he is not required for either further enquiry or investigation. He has shown willingness to return entire land allegedly gifted to him and has filed application to that effect and it only on account of indecisiveness by the NAB such application is still pending. It goes without saying that Constitution recognizes right of accused to expeditious trial which in this case *prima facie* has been denied to the petitioner. Learned defence counsel citing above facts and grounds has pleaded for bail which has been opposed by learned Special Prosecutor NAB and I.O. However, learned DAG submits that the petitioner has been able to make out a case for bail on hardship ground.

4. Keeping in view the same and the facts and circumstances obtaining in this case, we also agree with learned DAG that this is a case of hardship, and further that petitioner's incarceration in jail even otherwise is not beneficial to the prosecution in any manner. Petitioner is only asking for a benefit under an arrangement which is interim in nature and is subject to the final decision to be made by the trial Court on conclusion of the trial. His counsel has undertaken that he would continue with plea-bargain application till its logical conclusion. Accordingly, in view of above, we allow this petition and grant bail to the petitioner subject to furnishing a solvent surety of Rs.10,00,000/- and PR bond in the same amount to the satisfaction of the trial Court.

JUDGE

JUDGE

A.K