

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C. P. NO. D-3409 & 3410/2012

ORDER WITH SIGNATURE OF JUDGE

- 1) For orders on Misc. No. 35743/2016.
- 2) For hearing of main case.

11.04.2017.

Mr. Usman Tufail Shaikh Advocate for Petitioner.
Mr. Muhammad Akram Javed Prosecutor NAB.
Mr. Shaikh Liaquat Hussain Assistant Attorney General.
Petitioner Muhammad Talat Farooq present in Court.

1. Through these two Petitions the Petitioner has sought pre-arrest bail in Reference Nos. 54 and 55 of 2007 pending before the Accountability Court No. IV at Karachi. Initially, separate F.I.Rs were lodged before the Special Judge (Customs & Taxation) at Karachi and thereafter, on an application under Section 16(a) of the NAB Ordinance they were transferred to the Accountability Court and References were filed.

2. Learned Counsel for the Petitioner submits that other co-accused have already been granted bails by the Special Court (Customs & Taxation) as well as by this Court, whereas, such orders have not been challenged any further by NAB. He further submits that no specific role has been assigned to the Petitioner and when such matter was pending before the Special Judge (Customs & Taxation), neither in the interim challan nor in the 161 Cr.P.C statements, the name of the Petitioner was mentioned. He prays for confirmation of the ad-interim pre-arrest bail.

3. On the other hand, learned Special Prosecutor NAB submits that the Petitioner is not entitled for bail inasmuch as he was an absconder and therefore, he cannot claim benefit of any bail orders passed in favour of other co-accused.

4. We have heard the learned Counsel as well as the Special Prosecutor NAB and our findings are as under:-

- a) It appears to be an admitted position that the main accused in this matter was granted bail by the Special Judge (Customs & Taxation) vide order dated 1.4.2006 and subsequently, after transfer of this matter to the Accountability Court in terms of Section 16(a) of the NAB Ordinance, no application or effort has been made by the NAB authorities seeking cancelation of such bail.
- b) It further appears that another co-accused was granted after arrest bail vide order dated 25.10.2012 in C.P. No. D-2943/2012 and on perusal of such order, it appears that the case of present Petitioner is identical to the role assigned to the said Petitioner who was granted bail on this very ground that principal accused has been granted bail by the Special Judge (Customs & Taxation).
- c) In our view the case of the Petitioner is on much better footing than the case of principal accused and therefore, following the rule of consistency, we do not see any reason to deny the concession of bail to the present Petitioner.
- d) Insofar as the objection regarding Petitioner's alleged abscondence is concerned, we may observe that it is not a hard and fast rule that all absconders are not entitled to the concession of bail. It depends entirely on the facts and circumstances of the case as well, therefore, we are not impressed by this objection. Reliance in this regard may be placed on the case ***Nadeem V. The State (PLD 1996 Karachi 490) and Muhammad Sadiq V. The State (1995 SCMR 1632)***.

5. In view of hereinabove facts and circumstances of this case, we are of the view that the Petitioner has made out a case for grant of bail. Accordingly, the ad-interim pre-arrest bail granted vide order dated 25.09.2012 is confirmed on the same terms.

6. Both Petitions stand disposed of accordingly along with all pending application(s).

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