

IN THE HIGH COURT OF SINDH AT KARACHI**Constitutional Petition No. D-392 of 2019***Present: Ahmed Ali M. Shaikh, CJ and Omar Sial, J*

Petitioner : Manzoor Ahmed Rufi
through Mr. Mudasser Hussain Zaidi, Advocate

Respondents : The Federation of Pakistan & others
through Mr. Kailash A. Wasvani, Special Prosecutor
NAB

ORDER

Omar Sial, J: The petitioner Manzoor Ahmed Rufi is one of the accused in Reference No. 9 of 2018 pending adjudication before the learned Accountability Court No. III in Karachi. This petition has been filed with the prayer that either the petitioner is acquitted of the charge against him or in the alternate he be admitted to post arrest bail. This is the second petition seeking post arrest bail filed by the petitioner, the first having been dismissed by this Court on 17-9-2018. The earlier petition was heard and decided by our learned brothers none of whom is performing his duties at the Principal Seat when this petition has been filed.

2. The background to the petition is that Manzoor Ahmed Rufi along with another co-accused Rauf Ahmed Rufi launched a project by the name of Rufi Global City in collaboration with a company by the name of Humair Associates. The Rufi brothers violated the approved layout plans, carved out more plots than authorized and sold them to the general public, without even owning the land that they sold out. 516 claimants approached NAB for redressal of their grievance and it was estimated that Rufi Brothers had cheated the general public to the tune of Rs. 726.3 million.

3. We have heard the counsel for the petitioner and the Special Prosecutor, NAB and examined the record. Our observations are as follows.

4. We asked the counsel for the petitioner as to what new grounds had arisen which would entitle the petitioner to bail in view of the fact that an earlier petition filed seeking bail had been dismissed. The learned counsel replied that Manzoor Ahmed Rufi was not a partner of Rufi Brothers; that he has been included in the Reference only on the ground that he is the brother of the main accused Rauf Ahmed Rufi and that the allegations against him are vague. When pointed out to the counsel that it was apparent from the record that all three grounds were available to the petitioner at the time the

first bail application was filed and that no new ground had been argued before us in this petition, the learned counsel replied that the petitioner's counsel, who had appeared in the earlier petition, had failed to bring such grounds to the notice of this Court. We are not satisfied with the stance taken by the counsel. Reference in this regard may also be made to the case of **Nazir Ahmed vs The State (PLD 2014 SC 241)** wherein the Hon'ble Supreme Court observed and held that *"Dismissal of an application for bail after attending to the merits of the case amounts to rejection of all grounds available or in existence till the time of such dismissal whether such grounds were actually taken or urged or not and whether such grounds were expressly dealt with in the order of dismissal or not."*

5. To another query, whether the petitioner had approached the NAB for a plea bargain, the counsel replied that NAB had forcefully made him sign a plea bargain application while he was in jail. The record reveals the contrary. Documentary evidence on record shows that it was the petitioner's counsel who had approached NAB vide his letter dated 12-4-2018 for a plea bargain pursuant to a prayer raised by the petitioner in his earlier petition (C.P. 2095 of 2018) where he had sought the interference of this court to direct NAB that it accepts his plea bargain. We also observe, though the same was not expressly brought to our notice by the counsel, that the petitioner had filed an application under section 256-K Cr.P.C. before the learned trial court, where the matter was pending adjudication at the time this petition was filed in this Court.

6. In view of the above, the petition seeking acquittal or post arrest bail stands dismissed.

JUDGE

CHIEF JUSTICE