

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Present: Ahmed Ali M. Shaikh, CJ & Omar Sial, J
Constitution Petition No. D – 6226 of 2019

Date	Order with signature of Judge
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For hearing of main case.

19th November, 2019

Mr. Ahmed Ali Ghumro, Advocate a/w petitioner Syed Qaiser Mehmood.
Mr. Riaz Alam Khan, Special Prosecutor NAB a/w Abdul Hafeez Siddiqui, Director
NAB and Umair Qureshi, I.O.
Ms. Rahat Ahsan, Addl.P.G.

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Omar Sial, J: The petitioner Syed Qaiser Mehmood is one of the accused in Reference No. 8 of 2019 pending adjudication in the Accountability Court No. III at Karachi. Through this petition he has sought pre-arrest bail.

2. A brief background to the case is that a society by the name of Arisha Co-operative Housing Society was established in 2012. Soon thereafter the Society, acting through its representative (Petitioner Qaiser Mehmood) purchased one acre and two ghuntas (1-20 acres) of land situated in Scheme 33, Karachi. The allegation is that in addition to the land allotted to it, the Society carved out and sub-leased 181 plots over the adjoining government land that actually belonged to the Karachi Water & Sewerage Board for the purposes of the Dumlotee water line. The Society's Secretary Imran Siddiqui (also an accused in the Reference) executed the sub-leases on behalf of the Society whereas Zafar Nehal (also an accused in the Reference) was the Chairman who allegedly ignored the objections of the concerned department over the layout plan of the Society and did not stop the sub-leasing of the plots pursuant to the unapproved layout plan. Interestingly, the petitioner Qaiser Mehmood who purchased the land on behalf of the Society, is also the owner of an entity by the name of Musarat Mehmood Builders. NAB has shown us evidence that at least 4 plots were sold by Musarat Mehmood Builders for Rs. 72 lacs whereas their approximate value was Rs. 45 lacs each. The petitioners are alleged to have caused a loss of Rs. 814,500,000 to the national exchequer.

3. We have heard the learned counsel as well as the learned Special Prosecutor, NAB and have perused the record shown to us. Our observations are as follows.

- (i) NAB investigation prima facie shows that although an area of 1 acre and 20 ghuntas was purchased by the Society by executing a sale deed, in fact, the

Society carved out 180 plots over an approximate area of 10 acres and sold out the same to many different people. The Revenue record and the statements recorded by the KWSB management appear to support NAB's allegation. In fact it is not denied that the Society is now spread over 11 acres of land and that at the moment 255 third party interests have apparently been created on the land.

- (ii) Leaned counsel for the petitioner Qaiser Mehmood argued vehemently that his client was not connected with the affairs of the Society in any manner whatsoever and that buying and selling properties was no offence. We have been quite baffled by the argument raised by the learned counsel. On the one hand he argued that the petitioner has nothing to do with the Society and that he purchased the land from one Abdul Salam Memon and then sold it to the Society, on the other, he is unable to justify why the sale deed dated 15-2-2012 shows that the Society itself purchased land from Abdul Aziz Memon with Qaiser Mehmood acting on behalf of the Society and then subsequently Qaiser himself entered into an agreement to sell for the same land. It appears that Qaiser Mehmood in the first instance purchased the land on behalf of the Society from Abdul Aziz Memon and then agreed to sell the same land to the Society in his personal capacity. On a tentative assessment at this pre-arrest stage it appears that Qaiser's participation in the scam cannot be completely ruled out.
- (iii) No documentation has been shown to us that would establish that the Society was the owner of the 10 acres of additional land which has been sold out by them. No malafide on the part of NAB has been claimed or argued by the learned counsel. The learned counsel has also not been able to show us any evidence from which malafide can be inferred.
- (iv) In view of the above, we find no reason to extend any extra-ordinary concession to the petitioner at this pre-arrest stage. Accordingly, the interim pre-arrest bail granted to the petitioner is recalled and the petition dismissed.

JUDGE

CHIEF JUSTICE

