

**IN THE HIGH COURT OF SINDH AT KARACHI**

*Present : Ahmed Ali M. Shaikh, CJ  
Omar Sial, J*

**Constitution Petition No. D – 8864 of 2018**

Petitioner : Muhammad Riaz  
through Mr. Aamir Mansoob Qureshi, Advocate

Respondent : Chairman NAB  
through Mr. Kelash Vaswani, Special Prosecutor  
NAB a/w Khalid, I.O.

**ORDER**

**Omar Sial, J.:** On 2-8-2004 a truck left the premises of Lakhani & Co., Diplomatic Bonded Warehouse situated in Clifton. The Intelligence Wing of Pakistan Customs, acting on spy information, intercepted the truck. Upon checking the said truck alcoholic beverages of foreign origin were found in substantial quantity. The driver of the truck could not produce the requisite documentation so the truck was taken to the Customs office by its sleuths for further proceedings. Simultaneously, another team of the Customs raided the warehouse of Lakhani & Co. in Clifton and discovered that the said warehouse was not sealed as required by law. Upon inquiry from the watchmen of the warehouse the Customs learnt that the manager of the warehouse, a man named Zahid Nasir, had a certain portion of the alcohol stored in the warehouse, packed in unmarked boxes on a truck (which appears to be the same truck which was seized earlier) and transported the same out of the warehouse without the requisite permissions or documentation. Upon further investigation it was revealed that Farooq-e-Azam Cheema (an Examining Officer of Customs) along with one Riaz Malik (the petitioner herein) had unlawfully and illegally removed huge quantities of alcohol from the warehouse. In addition, a huge quantity of smuggled alcohol was also found in the warehouse. Customs determined the total loss to the Government Exchequer on account of evaded taxes and duties to be approximately Rs. 145 million. An F.I.R. was registered against a number of people, which included the petitioner. It appears that on 9-1-2006 the case was transferred to NAB and NAB filed a Reference bearing No. 2 of 2006. The petitioner was declared an absconder in the proceedings. On 30-1-2018, the learned Accountability Court No. III announced its judgment in which acquitted all the accused who had faced trial but put the case of the petitioner on the dormant file with the order that it be activated when the petitioner surrenders to the court.

2. The petitioner who remained an absconder till the judgment of the trial court was announced has now approached this court seeking pre-arrest bail.

3. The learned counsel for the petitioner has argued that all other accused in the case have been acquitted by the learned trial court; that the license to deal in alcohol was not in the name of the petitioner; that the petitioner was unaware of the proceedings before the learned trial court as he lived in Lahore; vague allegations had been leveled against the petitioner and that there was no material available against him except the statement of the investigating officer of the case. To the contrary, the learned Special Prosecutor NAB has argued that the petitioner was the mastermind and the main protagonist in the episode and that he was the defacto owner of the entire operations.

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

5. As regards the learned counsel's assertion that the petitioner remained unaware of the proceedings before the learned trial court as he had moved to Lahore, prima facie we are not convinced with it as NAB has placed on record a copy of the National Identity Card of the petitioner which prima facie shows that the same was issued to him in 2016 and in which his current address is stated to be of a house in Gizri, Karachi. Further, in 2005 the petitioner appeared before this Court seeking bail in the original F.I.R filed against him by the Customs.

6. The learned counsel's assertion that the petitioner had nothing to do with the business of Lakhani & Co., also prima facie appears to be incorrect. In this regard, NAB has put on a record a letter dated 15-2-2005 written by the Commercial Counsellor at the Consulate General of Pakistan in Dubai, which states that upon inquiries from the exporter of the alcohol in Dubai, it was revealed that the petitioner on behalf of Lakhani & Co. had dealt with the company in connection with the transaction and that money had been paid by Lakhani & Co. through "informal channels". Further still, the house that served as the warehouse was owned and leased out to Lakhani & Co. by the wife of the petitioner, namely, Mrs. Tauqir Mushtaq. In this regard, NAB has placed on record a copy of the lease deed entered into between Mrs. Mushtaq and the company executed in 2003. NAB has also put on record the call data record of the petitioner which also prima facie shows him being in regular contact with the manager of the warehouse as well as the concerned customs officials.

7. The argument by the learned counsel for the petitioner that the petitioner is not the owner of the license to operate a bonded warehouse appears to be correct. In this regard however, the previous owner of Lakhani & Co., a man named Wali Mohammad, has recorded his statement in which he has said that the real purchaser of the bond was Riaz Malik but that as a license can only be issued to non-Muslims, he had given the names of his front men Stephen Francis (a Christian) and Aijaz Ahmed Khan (a Qadiani) to be shown as the owners of the bond. Wali Mohammad has also recorded that the money was given to him by the petitioner through pay orders. Further still, Mushtaq Pal (a clerk in the income tax department and the father of two persons who worked at the warehouse) has also recorded his statement in which he has said that the income tax returns of Lakhani & Co. have all along being filed on the instructions of the petitioner. A similar statement i.e. he would act upon the instructions of the petitioner, has also been recorded by the owner of the clearing agency which was used by Lakhani & Co. to clear the alcohol supplies. Yet further, it appears that the bank account of Lakhani & Co. has been operated by the sister-in-law of the petitioner.

8. We have been shown sufficient evidence to prima facie establish that the petitioner was the defacto owner of Lakhani & Co and was fully involved with all transactions of the bonded warehouse. We are not satisfied that the petitioner was unaware of the legal proceedings before the accountability court and it appears that his abscondence was deliberate. In the absence of any malafide, either pleaded or demonstrated, on the part of Customs or NAB, we are not inclined to show any leniency towards the petitioner on account of his abscondence. No extraordinary grounds have been raised to entitle the petitioner to the concession of pre-arrest bail.

9. In view of the above, the petition seeking pre-arrest bail is dismissed.

JUDGE

CHIEF JUSTICE