

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

**Constt. Petition No.D-1115 of 2019**  
a/w C.P No.D-1217, 1218, 1219 and 1812 of 2019  
C.P. No.D-194 of 2020.

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE.
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1. For orders on O/Objection at flag-A.
2. For hearing of main case.

**24.08.2021**

M/s Mukesh Kumar G. Karara, Nisar Ahmed Bambhro and Jehanzeb Soomro associate of Mr. Haq Nawaz Talpur Advocate for petitioners.

Mr. Mujeeb-u-Rehman Soomro SPP NAB.  
Mr. Ali Raza Pathan Assistant Attorney General.

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Petitioners are present on interim pre-arrest bail.

Mr. Waseem Ahmed Sundrani Advocate files power on behalf of petitioner Zulfiqar Ali Daudpoto in C.P No.D-1218 of 2019, which is taken on record.

2. Through instant Constitution Petitions, the petitioners seek pre-arrest bail in Reference No.11 of 2019 pending adjudication before Accountability Court Sindh at Sukkur.

3. Learned Counsel for petitioners while placing on record copy of the order dated 19.05.2021 passed in C.P. No.D-3225 of 2019 and C.P. No.D-6440 of 2019 by a Division Bench of this Court at Principal Seat states that in identical matters wherein no NBWs have been issued by the Chairman NAB or the Director General NAB Karachi, against the petitioners. Division Court disposed of the said petitions by leaving the petitioners at liberty to approach learned trial Court and furnish a bond in terms of Section 91, Cr.P.C to ensure their presence in the trial in view



of principle laid down in C. No.D-1914 of 2020 and other connected petitions by a Full Bench of this Court and case reported as 2014 SCMR 1762 (Sarwar v. The State).

4. Learned Special Prosecutor NAB opposes the proposition of learned Counsel for petitioners and states that first the petitioners should approach the trial Court by furnishing a bond in terms of section 91, Cr.P.C; however, he admits that Chairman NAB and Director General NAB, Karachi have not issued Warrants of arrest against any of the petitioners.

5. It reflects from the perusal of the order passed in C.P. No.D-1914 of 2020 and other connected petitions on 26.04.2021 that the issue with regard to the non issuance of warrants of arrest by Chairman NAB or any Officer authorized by him has been finalized in following terms;

- (i) *An accused under the NAO against whom the Chairman NAB has not issued any permission/direction to arrest, but against whom a Reference is filed, when such accused appears or is brought before the Accountability Court pursuant to a process issued under section 204 CrPC, whether summons, bailable warrant or non-bailable warrant, he can be required by the Court to execute a bond with or without sureties under section 91 CrPC to assure his appearance before the Court;*
- (ii) *Section 91 CrPC is not available for an accused who appears before the Court on bail, except where he is on bail against the very warrant issued to compel his appearance in Court;*
- (iii) *If the accused under the NAO is denied pre-arrest bail, he is exposed to arrest by the NAB either under section 24(a) NAO if such direction had been issued prior to the Reference, or under section 24(c) NAO if a direction for his arrest is given after the Reference, and if the accused is so arrested*



*then section 91 CrPC will not be available when he is brought before the Court;*

- (iv) *If on the rejection of the petition for pre-arrest bail there is no direction for arrest pending under Section 24(a) NAO, nor is one subsequently issued under section 24(c) NAO, the situation is the same as at serial (i) above with the same consequences.*

6. We, therefore, in view of dictum mentioned above dispose of these petitions by leaving the petitioners at liberty to approach the learned trial Court and furnish a bond in terms of Section 91, Cr.P.C within seven(07) days' hereof.

Above mentioned petitions stand disposed of.

*Davis*  
JUDGE

*Ant*  
JUDGE