

Order sheet  
**IN THE HIGH COURT OF SINDH, KARACHI.**

Present:-  
Mr. Justice Muhammad Iqbal Kalhoro.  
Mr. Justice Shamsuddin Abbasi.

**Constitutional Petition No.D-1178 of 2021**  
Sami Ahmed

**Versus**

Federation of Pakistan & others

**Date of Hearing** : 18.05.2021 & 21.05.2021  
**Date of order** : 21.05.2021  
Mr. Muhammad Sajjad Abbasi, advocate for petitioner  
Mr. Shahbaz Sahotra, Special Prosecutor, NAB a/w IO Nasir Shehzad  
Mr. Muhammad Ahmed, AAG

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**ORDER**

**Muhammad Iqbal Kalhoro, J:-** Petitioner accused in Reference No.61/2013 pending before the learned Accountability Court No.1, Sindh at Karachi has applied for pre-arrest bail by means of this petition taking grounds, reiterated by his counsel, among others, that he is innocent; has falsely been implicated in this case out of malafide; no evidence has come on record against him; co-accused with similar role have already been extended concession of bail, he and his family members themselves are victim of fraud committed by the Company working under the proprietorship of main accused Syed Zahid Ali, who has also been granted post arrest bail; abscondence of the petitioner was not on purpose but was because of his unawareness of pendency of this case.

2. Learned Special Prosecutor, NAB and IO have, however, controverted such pleas of petitioner and have referred to documentary evidence against him which reflects his operating a bank account since 2007 with a total deposit of Rs.88.025 million at different times; agreements of investment signed by him on behalf of the company as a witness with the affectees, and 161 CrPC statements of witnesses impeaching him in the scam. They have also drawn court's attention to long abscondence of petitioner for more than 07 years in order to insist that this fact alone is sufficient to divest petitioner of any consideration in favour of extra-ordinary relief of pre-arrest bail to him.

3. We have considered contesting contentions of the parties and have perused material available on record. As per brief facts, on a complaint to FIA by one Jamal Abdul Nasir, Deputy Director, Banking Policy & Regulations Department, State Bank of Pakistan disclosing cheating and fraud with general public by Syed Zahid Ali and his agents through a Finance Company with the name & style of Nationwala Financial Services Company luring public to invest in profit bearing schemes, an FIR No.04/2013 was registered against the said accused and his family members. However, the same along with the interim investigation report was transferred to the learned Accountability Court in terms of application u/s 16-A of National Accountability Ordinance, 1999. During the investigation by NAB, it was discovered that petitioner and co-accused were instrumental in collecting an amount of Rs.147,917,399/- from 155 victims through fraud on promise of giving them 5% profit each month on principal amount. Role of the petitioner is set out in para-14 of the reference that he along with main accused and others in connivance with each other was running the said illegal business and thus cheating innocent people.

4. Learned defence counsel's emphasis that no incriminating evidence has been collected against petitioner is not sustainable. Bank record of Account No.1007-0009601-0001 operated solely by him reflects a total deposit of Rs.88.025 million, which he has failed to account for. He has claimed that amounts were deposited in his account by family members, but no such evidence is forthcoming. In addition, the agreements whereby the general public was enticed in parting their life time savings were found to have been signed by petitioner on behalf of the company. Plus there are 161 CrPC statements of the victims pointing involvement of the petitioner in the alleged offence. One PW, a Bank official, in his evidence has *prima facie* implicated him carrying on dubious/suspicious transactions in his said account. Such material furnishes a *prima facie* evidence against the petitioner disentitling him to a remedy, extraordinary in nature, rooted in equity, and meant to protect innocent from arrest and humiliation in a criminal case launched on account of motive, ulterior and malafide. His unexplained abscondence is another factor which along with material available on record has heavily weighed in moulding our opinion against him.

5. Additional ground of rule of consistency cited by petitioner to seek the relief does not seem to be attracted in his case either. The order granting bail to co-accused Mrs. Naheed Jamal in C.P. No.1763/2014 reflects that the circumstances, *inter alia*, that she was not beneficiary, mainly weighed with the court to form an opinion in her favour. While here petitioner's being beneficiary of the alleged scam defrauding innocent people of their hard earned money is *prima facie* established. We, therefore, do not find the petitioner entitled to concession of pre-arrest bail on any of the grounds taken by him and dismiss this petition.

6. Petition stand disposed of in the above terms. The observations made hereinabove are tentative in nature and would not prejudice case of either party at trial.

JUDGE JUDGE

Rafiq/P.A.