

Not for Reporting.
NAB grant of ad interim post arrest Bail.

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ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P.No.D-1005 of 2018

Date	Order with signature of Judge
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Before:

Mr. Justice Muhammad Iqbal Kalhoro, J.
Mr. Justice Mohammed Karim Khan Agha, J.

18.04.2018.

M/s. Abdul Wahab Baloch & Muhammad Yasin Qureshi,
Advocates for the petitioner.

Mr. Yasir Siddiqui, Special Prosecutor, NAB a/w Tariq Hameed
Butt Director NAB and Muhammad Sarwar I.O.

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ORDER

Mohammed Karim Khan Agha J. The petitioner seeks post arrest bail in NAB Reference No. 06/2018 (State v. Abrar Ahmed & others), whereby he is involved in corruption and corrupt practices under the National Accountability Ordinance, 1999 (NAO).

2. The allegation against the petitioner is that he in connivance with accused Syed Aamir Ali Shah and others usurped plots / land of the Pak Punjab Housing Society (the society) by preparing purported documents of allotments and transfers of the plots of the society and for covering the fraudulent transfers of the society's plot he managed a joint venture agreement dated 07.04.2009 with Syed Amir Ali Shah for construction on the same plots and launched a project namely Premier Regency Villas for selling to the general public which caused a huge loss to the society and cheated/defrauded the original members of the society.

3. The petitioner was originally on pre arrest bail along with a number of co-accused in the reference which was recalled vide order of this court dated 23.11.2017. The petitioner submitted that when his pre arrest bail was recalled by the aforesaid consolidated order at least 15 other petitioners who had their pre arrest bail recalled managed to evade arrest and reach Islamabad where they were granted ad interim pre arrest bail by the Hon'ble Supreme Court vide order dated 22.02.2018 in order to explore ways of settling the losses with the members of the society who had been cheated/defrauded by them. He also noted another petitioner who had been arrested was granted ad interim post arrest bail in order to try and settle the matter. As he also intended to settle the matter he sought post arrest bail.

4. Learned Special Prosecutor NAB opposed the grant of post arrest bail as according to him the petitioner's plea bargain application had been declined by NAB and he was not in a position to settle the matter and there was sufficient material on record to connect him to the offense for which he had been charged.

5. We have heard learned counsel for the parties and considered the record.

6. It would appear that since the petitioner was arrested on the recalling of his pre arrest bail he is worse off than the other petitioners whose pre arrest bail was recalled and who evaded arrest since for the purposes of settlement they have been granted ad interim pre arrest bail and even in one case ad interim post arrest bail in order to facilitate him in reaching his settlement by the Supreme Court vide order dated 22.02.2018. The petitioner has also attempted to settle the matter but his main difficulty is that he is co-owner of the joint venture property with accused Syed Amir Ali Shah and whilst he is prepared to surrender his share of the property Syed Amir Ali Shah has refused to surrender his part of the same and as such the petitioner has been thwarted in making such surrender which he intended to do. However it appears that Syed Amir Ali Shah has been admitted to ad interim pre arrest bail by virtue of the aforesaid Supreme Court order to enable him to settle the matter by other means. We do not consider that the petitioners case is on the same footing as the petitioner who has been granted ad interim post arrest bail by the Hon'ble Supreme Court as that petitioner had already surrendered his rights in the plots in his name (which the petitioner as mentioned above has been unable to do) and his release has been made to facilitate such settlement for a temporary period.

7. As a rule we do not consider it appropriate to release a person on bail in NAB cases simply because he is prepared to settle the loss as this should be done by way of plea bargain under the NAO. Based however on the exceptional facts and circumstances of this case especially where the petitioner has been thwarted in his genuine efforts to surrender his property, the fact that others in the same reference who evaded arrest after their pre arrest bail was recalled by this court have been given ad interim pre arrest bail by the Hon'ble Supreme Court in order to settle

their liabilities without touching the merits of the case we hereby grant the petitioner ad interim post arrest bail for the purpose of settling his liability **until the next date of hearing** subject to him furnishing two solvent sureties in the sum of RS 0.5 M (Five lacs) each and PR bond in the like amount to the satisfaction of the Nazir of this court **and** subject to him paying to the Chairman NAB RS250 M (two hundred and fifty million) for settlement purposes which the Chairman NAB shall keep in a government owned interest bearing account and shall submit a report showing that the said amount has been so deposited on the next date of hearing. The secretary Ministry of Interior is also directed to place the name of the petitioner on the ECL. This matter shall come up before this court at 11am on 23-05-2018 when the petitioner shall be present in person and the ad interim pre arrest bail granted to him by virtue of this order shall be reviewed based on the progress made in his settlement of his liability with the NAB. **It is made clear that this order shall not be used as a precedent in any NAB case as it is based on the peculiar facts and circumstances of the case in hand and in general if a party wishes to settle a matter under the NAO this should be by way of Plea bargain under S.25 NAO.**

8. A copy of this order shall be transmitted by the office to the Secretary Ministry of interior for compliance with respect to immediately placing the name of the petitioner on the ECL and the chairman NAB in respect of the deposit of RS 250M by the petitioner.

9. To be fixed in court on 23-05-2018 at 11 am for further orders.