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IN THE HIGH COURT OF SINDH, KARACHI

Before Mr. Justice Ahmed Ali M. Shaikh, Acting CJ.
Mr. Justice Muhammad Karim Khan Agha

C.P. No. D-292 of 2015.

Saifullah Bullo

V.

State through Director General
NAB & others.

Date of hearing	04-03-2016
Date of Order	08.03.2016
Petitioner:	Through Mr. Asadullah Bullo Advocate
Respondents:	Through Mr. Noor Muhammad Dayo ADPG NAB a/w Hassan Noor A.D./I.O.

ORDER

Muhammad Karim Khan Agha, J. By order dated 19.01.2015 this Court admitted the petitioner to ad-interim pre-arrest bail as he anticipated his imminent arrest in connection with a scam while he was serving as Assistant Secretary in Workers Welfare Board Government of Sindh. Today, this matter has come up for confirmation or otherwise of his ad interim pre arrest bail.

2. The brief facts of the case are that the National Accountability Bureau (NAB) received a complaint regarding embezzlement of government funds by the officers/officials of Sindh Workers Welfare Board which led to NAB opening an inquiry into the complaint which was subsequently converted into an investigation. During the course of investigation it was revealed that the petitioner who was Deputy Secretary (Admin) at the relevant time purchased office stationery and furniture amounting to Rs.4.3 million without completion of codal formalities on fake quotations. The petitioner had misused his authority by issuing ambiguous work orders without mentioning specifications for supply of items in violation of PPRA rules which caused a loss of RS1, 292,110 to the national exchequer.

3. During the course of the investigation a market survey revealed that the furniture which was purchased by the petitioner was at exorbitant rates which further contributed to the loss to the national exchequer.

4. As a result of the evidence collected during the investigation the NAB filed reference No.32/2015 on 6-10-15 before the Administrative Judge

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Accountability Courts Karachi against the petitioner under section 9(a) of the National Accountability Ordinance 1999 (NAO) as he had committed the offense of corruption and corrupt practices through his misuse of authority.

5. Learned counsel for the petitioner submitted that the petitioner was completely innocent and that he had no role in approving the purchase of the furniture which had been approved by the competent authority. He further pointed out that the case against him was mala fide as NAB had not joined any members of the competent authority who had actually approved the purchase. He further submitted that he played no role in the offence and was not connected to the commission of the crime.

6. Learned DPGA NAB submitted that the petitioner was fully involved in the commission of the offence and the evidence on record proves this beyond a reasonable doubt. He also contended that there had been no mala fide on the part of the NAB and that one of the persons involved in the scam had not been made an accused as he had accepted his guilt and entered into a voluntarily return under section 25 (a) of the NAO, 1999.

7. We have perused the record and considered the relevant law and the submissions of learned counsel at the bar.

8. As this is a bail matter we have only made a tentative assessment of the material before us.

9. The reference has prescribed a specific role to the petitioner in paragraph 2 of the reference which states as under:

“That during the course of investigation it has been revealed that the accused Saifullah Bullo, Deputy Secretary (Admin) purchased office stationery and furniture amounting to Rs. 4.3 million without completion of codal formalities on fake quotations. The accused misused his authority by issuing ambiguous work orders without mentioning specifications for supply of items in violation of PPRA rules and caused a loss of Rs.1,292,110/- to the national exchequer.”

10. The note sheet of the Sindh Workers Welfare Board (Education Sector) on 26.3.2014 provides as under:

“Subject: PROVIDING FURNITURE TO THE COLLEGE SINDH.

It is submitted that the current academic session 2014 has been started from April 2014, required furniture to the Workers Intermediate College (Boys) Kotri, for smooth working, is essentially to be provided.

For the disbursement of furniture to the school, individual quotations have been taken from the following contracting firms and these firms have also been quoted their rates:

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1. M/s. Shan Furniture & Interiors	Rs. 98,300/-
2. M/s. Decision Furniture.	Rs. 102,500/-
3. M/s. Dream Furniture.	Rs. 104,88/-

Comparative statement may kindly be perused at (Flag A).

From amongst all three contracting firms, M/s. Shan Furniture & Interiors has been quoted lowest rates.

Therefore, the competent authority is requested to accord approval for issue work order to the lowest quotee firm namely M/s. Shan Furniture & Interiors, to provide furniture to the college.

Submitted for kind perusal and orders, please.

Sd/-
Deputy Secretary (Admin)"

Admin Officer

Secretary SWWB

Chairman SWWB . Approved subject to condition that the responsibility of the rates quoted above will be of note submitting officer & official. (Added in manuscript)"

11. In our view this letter alone shows that the petitioner is connected with the offence as it was he who arranged the quotations and sent up the note recommending the work be given to M/s. Shan Furniture & Interiors. Such quotations were made in violation of the Sindh PPRA Rules.

12. Furthermore there is a manuscript note by the Chairman attached to the note sheet which reads as under:

"Approved subject to condition that the responsibility of the rates quoted above will be of note submitting officer & official".

13. This manuscript note makes it clear that the approval was conditional and the responsibility for the rates which were quoted was placed squarely on the petitioner. This is also perhaps the reason why the competent authority was not made a part of the reference.

14. The market survey also reveals that the furniture was purchased at an exorbitant rate which caused loss to the national exchequer and in this respect the supplier has already made a voluntary return in respect of the loss which was attributable to him which in our view is a strong indication that the rates were not fixed in a transparent and legal manner.

15. Based on the above discussion we are of the considered view that there is sufficient material connecting the Petitioner with the Commission of the offense.

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Besides the Petitioner has not placed on record any material to show that his involvement in the reference is the outcome of any malafides.

16. As such the petitioner's constitutional petition under Article 199 of the Constitution is dismissed and consequently the order dated 19.01.2015 whereby the petitioner was granted ad interim pre-arrest bail is hereby recalled with immediate effect.

17. As noted above this decision is only based on a tentative review of the material on record and shall not prejudice either party during the trial proceedings.

18. These are the reasons for our short order dated 04.03.2016.

Dated: 08.03.2016

