

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CP No.D-2828 of 2025
(**Mirza Afzal Baig v Federation of Pakistan and others**)

DATE	ORDER WITH SIGNATURE OF JUDGE
	Before :- Mr. Justice Adnan-ul-Karim Memon Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order:- 03.02.2026

Mr. Umair A. Bachani, Advocate for the Petitioner.
Ms. Mahreen Ibrahim DAG
Mr. Special Prosecutor NAB

O R D E R

Adnan-ul-Karim Memon, J.- Petitioner Mirza Afzal Baig has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following reliefs:

- "a) Declare that the placement of the Petitioner's name on the Exit Control List vide Memorandum dated 03.07.2019 is illegal, unlawful, void ab initio, and in violation of his fundamental rights guaranteed under the Constitution of the Islamic Republic of Pakistan, 1973,
- b) Direct the Respondents to forthwith remove the name of the Petitioner from the Exit Control List, as its continued placement is without lawful justification and in violation of the Petitioner's fundamental rights
- c) Direct Respondent No. 3 and Respondent No 4 to forthwith restore and unblock all bank accounts maintained by the Petitioner with their respective branches, which have been unlawfully blocked without any lawful authority, court order, or due process, in the interest of justice and to prevent further irreparable loss and hardship."

2. At the outset, learned counsel for the Petitioner submitted that the Petitioner is a businessman engaged in real estate under the name and style of *Mirza and Son*, a respected member of the Karachi Chamber of Commerce and Industry, enjoying an unblemished reputation with deep social and commercial roots in Karachi. It was contended that the Petitioner has been wrongly arrayed as an accused in NAB Reference No. 28/2018 despite having no substantive involvement in the alleged offence. It is submitted that from the inception, he has fully cooperated with the investigation, appeared before the learned Accountability Court, and never attempted to evade the process of law, posing no flight risk. It is further submitted that although pre-arrest bail was granted on 06.05.2019, his name was placed on the ECL as a conditional measure. He added that despite the lapse of nearly seven years, the trial has made negligible progress,

with only 3 out of 21 witnesses examined due to reasons beyond the Petitioner's control. He argued that the continued placement of his name on the ECL is thus oppressive, disproportionate, and violative of Articles 4, 9, 14, 15, and 25 of the Constitution. It is emphasized that during the period his name was removed from the ECL, he neither absconded nor misused the concession of bail, and similarly placed co-accused have already been granted relief on the principle of parity. Learned counsel also contended that the Petitioner's bank accounts were/are unlawfully blocked without any court order or lawful authority, and that mere correspondence by NAB did not justify such action, particularly after the omission of Section 23 of the National Accountability Ordinance by the National Accountability Act, 2021. He prayed to allow this petition.

3. Conversely, the learned DAG assisted by the learned Special Prosecutor NAB opposed the petition, contending that there is a likelihood of absconcence of the petitioner if the Petitioner's name is removed from the ECL and asserting that the placement was/is made on NAB's directions due to the above reason, they prayed to dismiss the petition.

4. We have heard learned counsel for the parties and perused the record with their assistance and case law on the subject issue.

5. We have noticed that a similar controversy has already been settled by this Court in C.P. No. D-585/2024 vide order dated 11.01.2024 and C.P. No. D-450 of 2024 vide order dated 20.02.2024. It is an admitted position that the Petitioner's name was placed on the Exit Control List pursuant to the order of this Court dated 06.05.2019 in a bail matter initially without any formal request from NAB, though such a request was made subsequently. The record further reflects that the Petitioner has been facing trial in the NAB Reference for more than seven years, and he has not been shown to have misused the concession of bail or breached the terms of bail or absconded during the intervening period.

6. The Supreme Court in *Federation of Pakistan through Secretary Interior v. Ayyan Ali (2017 SCMR 1179)* has categorically held that mere registration of a criminal case does not justify curtailment of a citizen's liberty or placement of name on the ECL, as it has no nexus with the object of the Exit from Pakistan (Control) Ordinance, 1981. Likewise, in *Federation of Pakistan v. General (R) Pervez Musharraf*

(PLD 2016 SC 570), it has been held that freedom of movement under Article 15 of the Constitution is a fundamental right and cannot be restricted arbitrarily without lawful justification, particularly in view of Article 4 of the Constitution, which guarantees due process.

7. The Exit from Pakistan (Control) Ordinance, 1981, read with the Rules, 2010, provides a complete statutory mechanism for restricting travel abroad, which can only be invoked upon lawful authority and valid justification. However the respondents have not shown any documentary evidence that even the competent authority i.e. Cabinet has placed any embargo upon the Petitioner to travel abroad. In absence of such restriction no lawful justification occurs with regards to place the name of the Petitioner on ECL. So far as the order of this Court is concerned that has already been taken care of in separate proceedings and allowed co-accused to travel abroad by allowing their names be removed from ECL.

8. When confronted, the learned Special Prosecutor NAB and learned DAG could not point out any cabinet decision or independent legal basis for continued placement of the Petitioner's name on the ECL, except reliance on earlier court orders, which issue already stands resolved by the aforesaid judgments/orders of this Court granting similar relief to co-accused on the principle of parity.

9. In view of the foregoing facts, settled law, and dicta laid down by the Supreme Court of Pakistan, the petition is allowed in terms of the decision of this court in the aforesaid cases as well as per the ratio of the judgment of the Supreme Court in the *Ayyan Ali* case. The Secretary, Ministry of Interior, Government of Pakistan,/competent authority of the respondents, is directed to remove the Petitioner's name from the Exit Control List forthwith.

10. The petition stands disposed of accordingly.

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