

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**  
**CrI. Bail Application No. D- 59 of 2026**

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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**Before;**

*Adnan-ul-Karim Memon, J;*  
*Abdul Hamid Bhurgari, J;*

Applicant            Muhammad Ibrahim **through** Mr. Muhammad Ali  
Napar, advocate.

The State            Through Mr. Mujeeb-ur-Rehman Soomro, Special  
Prosecutor, NAB, along with the I.O. of the case.

**Date of hearing and order: 03-06-2026.**

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**ORDER.**

**Adnan-ul-Karim Memon J:-** Applicant seeks post-arrest bail in Reference No. 13/2018 Re. ( The State Vs Sarwar Hussain & others) pending trial before the III-Accountability Court, Sukkur.

2.     The allegations against the applicant as pointed out are that he, along with his accomplices, jointly caused a loss of Rs. 54,31,01,902/- to the government exchequer, connecting him with the commission of offences punishable under Sections 9(a)(iii) and 9(a)(xii) of the National Accountability Ordinance, 1999, thus the subject NAB Reference was filed.

3.     Learned counsel for the applicant/accused contended that the applicant is innocent and has been falsely implicated in the present NAB Reference. He argued that no reliable incriminating evidence has been collected against him, as the Investigating Officer neither inspected the relevant record properly nor verified the execution of the alleged works. According to the defence, the investigation was conducted arbitrarily, mala fide, and in violation of law, without affording the applicant a proper opportunity to explain his position. It was further submitted that the applicant neither derived any unlawful benefit nor caused any loss to the national exchequer and that his case falls within the ambit of

further inquiry. Learned counsel also maintained that the applicant is not a previous convict or hardened criminal and is entitled to the concession of bail on the principle of consistency, as several co-accused have already been granted bail. Learned counsel submitted that after subsequent legal developments and amendments in the NAB law, the applicant could not appear before the trial Court due to exceptional personal circumstances, including criminal litigation involving his relatives. It was argued that there is no sufficient material connecting him with the alleged offence, that he did not gain any illegal benefit, and that the prosecution's case requires further inquiry. Reliance was also placed on the rule of consistency on the ground that the co-accused persons have already been enlarged on bail. However, he agreed that the applicant is ready to deposit the alleged liability amounting to Rs. 2,054,500/- (Twenty Lac Fifty Four Thousand Five Hundred Rupees Only), with the trial court without prejudice to his right to defend the case; however, he categorically stated that if he fails to succeed in the criminal case, the amount so deposited shall be forfeited.

4. Conversely, learned Special Prosecutor NAB assisted by the Investigation officer opposed both applications and submitted that the investigation had revealed substantial documentary evidence showing that the applicants, being contractors of TMA Garhi Yasin, received payments through several cheques for works which were neither awarded to them nor executed by them. It was argued that the applicants acted in connivance with public officials and thereby participated in the misappropriation of government funds, causing a huge loss to the national exchequer. The Prosecutor further emphasized that both applicants remained absconders for several years, despite the issuance of call-up notices and court process, and were eventually arrested. According to the prosecution, the applicants misused the concession of bail, were declared proclaimed offenders, and thus lost their entitlement to discretionary relief. It was also argued that the case of the applicant is distinguishable from those of the co-accused who had remained present before the Court and complied with the legal process. Therefore, the principle of consistency was/is not attracted, and the applicant is not entitled to post-arrest bail. He

pointed out that the applicant's liability and gains amount to Rs. 2,054,500/-(Twenty Lac Fifty Four Thousand Five Hundred Rupees Only). He prayed to dismiss the bail application.

5. We have heard the learned counsel for the parties and perused the record with their assistance.

6. The trial court, while declining bail to the applicant, being a contractor of TMA Garhi Yasin, in collusion with co-accused officials, allegedly received payments through eleven cheques from TMA accounts for works which were neither awarded to nor executed by him, thereby causing loss to the government exchequer. The contention regarding parity with the co-accused who had been granted bail was also rejected, and his case was found distinguishable from those of the co-accused who had complied with the court process.

7. The question whether such payments were lawfully received and whether the applicant is ultimately guilty or otherwise are matters requiring a deeper appreciation of evidence, which is not permissible at the bail stage.

8. Admittedly, the applicant is not a public office holder but a private contractor. The allegations against him primarily arise from documentary evidence already collected by the prosecution and placed before the Accountability Court. The entire case rests upon official records, payment vouchers, cheques, measurement books and other documentary material, which are already in the custody of the prosecution. Therefore, there is no likelihood that the applicant, if released on bail, would tamper with the prosecution evidence or obstruct the course of justice.

9. It is a settled principle of law that bail is not to be withheld as a measure of punishment before conviction. The object of detention before trial is merely to secure the attendance of the accused at trial and not to inflict a penalty. The guilt or innocence of the applicant can only be determined after recording evidence and the conclusion of trial. At the bail stage, only a tentative assessment of the material is permissible.

10. The record further reflects that the applicant has been attributed a specific monetary liability of Rs.2,054,500/-, which is identifiable and quantifiable. Learned counsel for the applicant has voluntarily undertaken to deposit the said amount before the trial Court, without prejudice to his defence. Such an undertaking adequately safeguards the financial interest allegedly involved in the Reference and reduces any apprehension regarding recovery.

11. It is also an established principle that where further inquiry is required regarding the extent of participation, individual liability, and alleged unlawful gain of an accused person, the concession of bail may be extended.

12. The question whether the works were actually executed, whether payments were lawfully released, and whether the applicant personally derived any illegal benefit are matters requiring recording of evidence and a deeper appreciation thereof, which cannot be conclusively determined at the bail stage. Although the applicant's conduct of remaining absent from the proceedings cannot be appreciated, the denial of bail cannot be used as a substitute for punishment where the accused has subsequently been arrested and is now available before the Court. Once his attendance can be secured through adequate surety and conditions, continued incarceration would serve no useful purpose.

13. The constitutional guarantee of liberty embodied in Article 9 of the Constitution of the Islamic Republic of Pakistan, 1973, requires that an accused person should not be deprived of his liberty except in accordance with law and for a justified purpose. Where investigation has been completed, the reference has already been filed, documentary evidence is secured, and the accused is available to face trial, further detention must be justified by exceptional circumstances.

14. The superior Courts have consistently held that where the prosecution's evidence is documentary in nature, the accused is no longer required for investigation, and the trial is likely to consume considerable time, the concession of bail may be granted subject to appropriate safeguards.

15. It is well settled that the grant of bail is a rule and the refusal an exception where no extraordinary circumstances exist. The Supreme Court emphasized that pre-trial detention should not be prolonged where the object of custody has ceased to exist. The Supreme Court reiterated that where evidence is documentary and already in possession of the prosecution, continued incarceration serves little purpose. The Supreme Court observed that the liberty of an accused cannot be curtailed indefinitely when the trial is likely to take considerable time and the evidence is documentary in nature.

16. Besides, the plea of consistency is equally available to the applicant at this stage. The record reveals that the co-accused who were granted bail remained in attendance before the trial Court and complied with the legal process, entitling him from claiming parity. However, the alleged loss caused to the public exchequer is prima facie substantial, and the applicant's role, as assigned in the Reference, needs to be looked into by the trial court.

17. Consequently, considering that the case is based upon documentary evidence already secured by the prosecution, the applicant is no longer required for investigation, his alleged liability is specifically quantified and is being deposited before the trial Court, the trial is yet to conclude, and further detention would not advance the cause of justice, the applicant has made out a case for the concession of post-arrest bail, subject to furnishing adequate surety and undertaking given by the counsel for the applicant as discussed supra.

18. For the foregoing reasons, we are persuaded to extend the concession of post-arrest bail to the applicant based on parity. Consequently, the instant bail application is allowed, subject to his furnishing a surety amount of Rs. One Million and a PR bond of like amount with the trial court, besides the applicant shall deposit his alleged liability and gains, cash amounting to Rs. 2,054,500/- (Twenty Lac Fifty Four Thousand Five Hundred Rupees Only), with the trial court.

19. Needless to observe that any observation made herein is tentative in nature and shall not prejudice either party during the trial.

**Judge**

**Judge**

Nasim/P.A