

**ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI.**

**C.P No.D-3526 of 2014**

**Noor Mohammad .....V..... NAB**

**C.P No.D-3538of 2014**

**Abdul Fatah Jamro.....V..... NAB & another**

**C.P No.D-3818 of 2014**

**Noor JahanMangi.....V..... NAB**

**C.P No.D- 3965 of 2014**

**Mst. SajidaLohar.....V..... NAB**

**C.P No.D-4310 of 2014**

**Mumtaz Ali Kalhoro.....V..... NAB**

**C.P No.D-4377 of 2014**

**Munir Ahmed Sailor .....V..... NAB& another**

**C.P No.D-3250 of 2014**

**NasrullahMemon.....V..... NAB**

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**Present:Mr. Justice Ahmed Ali M. Shaikh  
Mr. Justice Muhammad Iqbal Kalhoro**

Date of haring 16.04.2015

Mr. Mansoor Ali Ghangro, advocate for the petitioner in  
C.P No.D-3538 & 4310 of 2014.

Mr. Imdad Ali M. Ujjan, advocate for the petitioner in C.P  
No.D-3965 &3526 of 2014

Mr. UsmanTufailShaikh, advocate for the petitioner in C.P No.D-4377 of 2014.

Mr. Qazi Abdul HameedSiddiqui, advocate for the petitioner in C.P No. D-3818 of 2014

Mr. UmairBachani, advocate for the petitioner in C.P No.D-3250 of 2014

Mr. Noor Mohammad Dayo, A.DP.G NAB a/wNaveedRaheem I.O NAB and M. Akhtar Khan, Ex.I.O NA.

Ali Gohar Sheikh, Manager NBP Main Branch Shikarpur and Riaz Ahmed Pechuho, Manager NBP Hatidar Branch Shikarpur.

## **ORDER**

**Muhammad IqbalKalhoro, J.** Through this single order, the titled petitions, whereby the petitioners have prayed for bail in NAB Reference No. 7/2014 moved under section 18 (q) r/w section 24 (b) for the offence defined under section 9 (a) punishable under section 10 of the NAB Ordinance 1999, are disposed of.

2. The allegations against the petitioners are almost common in nature that they in connivance with each other embezzled/misappropriated GP Fund of District Account Office Shikarpur by preparing 74 bogus GP Fund bills to the tune of Rs.46.949 million in the month of July 2003 thereby indulging in corruption and corrupt practices and causing loss to the National Exchequer. For convenience and better understanding, the role of each petitioner is concisely discussed. The allegations against the petitioner Nasrullah (C.P No.D-3250 of 2014) are that he while showing himself as self DDO/Subject Specialist Govt. High Secondary School, Ghari Yasin, district Shikarpur fraudulently prepared a G.P fund bill of Rs.1.559 million, which was passed by the officials of

DAO Shikarpur. The said amount was transferred in his bank account No. 655-0 NBP Hati Dar Branch Shikarpur and withdrawn through a cheque no. A-0936482.

3. The accusations against the petitioner Noor Muhammad (C.P No.D-3526 of 2014) are that he in the capacity of Auditor at District Account Office Shikarpur, was Incharge G.P Fund Section and although it was his responsibility to check G.P Fund bills, G.P Fund balance slips, G.P Fund A/C number, G.P Fund calculation sheet, entries of G.P Fund calculation in G.P Fund ledger, service book of non-gazette officials and files of gazette officials before passing any G.P Fund bill but he fraudulently in total disregard to call of his duty in the above capacity passed the G.P Fund bills to the tune of Rs.47 million in connivance with officers/officials of DAO Shikarpur, officers, DDOs of Education Department and fake/ghost employees of Education Department. The subject G.P Fund bills and corresponding invoices of these bills were in his handwriting and most of them were also initialed by him.

4. As per the accusations against the petitioner Abdul Fatah Jamro (C.P No.D-3538 of 2014), he being DDO/Head Master Govt. High School Rahimabad, Taluka Khanpur, District Shikarpur, in connivance with officials of DAO Shikarpur fraudulently prepared five G.P Fund bills and withdrew an amount of Rs. 2.953 million, from the bank account No. 174-0 NBP Main Branch, Shikarpur, which was being operated by him as DDO/Head Master Govt. High School Rahimabad, Taluka Khanpur, District Shikarpur.

5. It is alleged regarding petitioner Mst. Noor Jahan Mangi (C.P No.D-3818 of 2014) that she being

DDO/ADEO (Male/Female) Ghari Yasin District Shikarpur and DOE (Elementary) Shikarpur, in connivance with the officials of DAO Shikarpur fraudulently prepared and passed nine (09) G.P Fund bills and withdrew an amount of Rs. 3.771 million from bank account No.1501-4 NBP Hati Dar Branch Shikarpur, as DDO/ADO Education (M) Ghari Yasin Shikarpur, account No.822-9 NBP Hati Dar Branch Shikarpur, as DDO/DEO (Elementary) Shikarpur and account No.887-8 NBP Main Branch Shikarpur as DDO/ADO Education (F) Ghari Yasin, Shikarpur which were being maintained and operated by her in the above official capacity.

6. It is alleged that the petitioner Mst. Sajida Lohar (C.P No.D-3965 of 2014), while working as DDO/Headmistress Govt. High School Chak Lakhi District Shikarpur, in connivance with officials of DAO fraudulently prepared one G.P Fund bill and withdrew an amount of Rs.0.390 million on 16.06.2003 from a bank account No.369 NBP Bagarji Branch, Shikarpur that was being maintained and operated by her as DDO/Headmistress Govt. Girl Hihg Court Chak Lakhi, District Shikarpur.

7. Record further reflects that petitioner Mumtaz Ali Kalhoro (C.P No.D-4310 of 2014), while working as DDO/ADEO (Male) Lakhi, in connivance with officials of DAO Shikarpur, fraudulently prepared 16 G.P Fund Bills and withdrew an amount of Rs. 7.32 million from bank account No.832-6 NBP Hatidar Branch, Shikarpur which was being operated by him as DDO/ADEO (Male) Lakhi, Shikarpur.

8. It is further alleged that in the tenure of one Abdul Ghaffar Daud Pota DDO Govt. High School Nim Sharif, Taluka Ghari Yasin, District Shikar, six (06) fake G.P Fund bills amounting to the tune of Rs.2.265 were passed. During investigation into it, he disclosed that at the relevant time viz. July 2003, he while being on vacation had received the above stated bills along with sanctioned orders of staff through the petitioner Munir Ahmed (C.P No.D-4377 of 2014), who by impersonating himself as a new teacher posted of late there got them signed. After he (Abdul Ghaffar Daudpota) was approached by the NAB authorities for investigation into the scam, he could find out through his personal efforts about the petitioner Munir Ahmed that he had got the bills signed from him fraudulently. When enquired about the whole episode, petitioner Munir Ahmed moved an application for plea bargain for 50% of embezzled amount of Rs.1.312 million. The application was presented before the Accountability Court concerned, where the Prosecutor NAB after submitting arguments thereon had withdrawn it.

9. Counsel for the petitioners argued separately for each petitioner turn by turn. The gist of their contentions could be surmised as, that there was no incriminating material on record against the petitioners; merely on the basis of false and baseless allegations the instant reference was filed against them in the Accountability Court Karachi; documents submitted there against the petitioners were false and fake and did not bear sufficient evidence to connect them with the commission of alleged offence; previously on the same set of allegations the NAB Reference 69/2007 (New number as 33/2010) was pending against the petitioners in the Accountability Court Hyderabad, as such the filing of present reference

against them was none but mala fide and it amounted to double jeopardy. Lastly, the learned counsel prayed for granting bail to the petitioners.

10. Conversely, Learned A.D.P.G NAB strenuously contended that the scam of like nature was menace to the wellbeing of Society and public exchequer; against the petitioners sufficient evidence in the shape of documents and statements of prosecution witnesses to connect them with the commission of offence was available and their pleading innocent in presence of such overwhelming evidence was without any force; that the persons who committed such like offences should be dealt with strictly to safeguard the interest of the country. He lastly prayed for dismissal of instant petitions.

11. We heard and perused the material available on record. The allegations against the petitioners on the whole are that they conjointly and in connivance with each other, while abusing their official positions, had misappropriated a sum of Rs.46.949 million approximately during the month of July 2003. Role of each petitioner has been independently identified as reproduced above. Their official position as DDO or in some case officer in District Account Office entails high degree of responsibility, inter alia, in account matters. The loss of millions of rupees to the national exchequer under their nose cannot be ignored merely because the petitioners have denied their signatures on documents that show theirs strong links to the scam. The evidence collected by the Investigating Officers of the NAB is based not only on documents bearing the signatures of the petitioners but the relevant record showing accrual of benefit to the petitioners. Therefore mere denial by the

accused in the case like in hand would not suffice, unless the material suggesting strongly against the veracity of allegations or mala fide on the part of prosecution is brought on record. We have examined the material for deciding the case of the petitioners for bail purpose, it contains several documents signed by the petitioners, the cheque leaves through which the amount was withdrawn from the bank accounts and it is also a matter of record that those bank accounts were being maintained and operated by the petitioners. The prosecution witnesses in their statements have also fully supported the case and have presented necessary record establishing nexus of the petitioners with the commission of offence. In presence of such evidence, we are not persuaded by the stance taken by the petitioners for seeking bail in the instant matter. The grant of bail in the cases involving corruption on the part of public functionaries has to be considered narrowly particularly so when there is *prima facie* evidence connecting them with the alleged offence. Learned A.D.P.G NAB has very aptly pointed out in his arguments to the efforts of the I.O who has not only collected the necessary documents connecting the petitioners with the commission of offence but, he has also fixed the responsibility/liability individually and separately on each petitioner by showing independent amount allegedly embezzled by each one of them. The bank record, the cheque leaves, the invoices, the statement of accounts showing withdrawal of money from the accounts operated by the petitioners are also the part of prosecution case, which cannot be ignored summarily on any hypothetical ground urged by the petitioners. The petitioners *prima facie* appear to be beneficiary of the alleged embezzlement.

12. The contention of the learned counsel that on similar charges, already reference No.69 of 2007 (new number 33 of 2010) is pending trial before the Accountability Court Hyderabad has also been attended to by us to examine applicability of principle of double jeopardy in the present case. We are afraid that such contention has no force as the referred reference pertains to the misappropriation in the General Provident Fund occurring during the year 2002-03, whereas, in the instant reference, the misappropriation is alleged to have been committed in July 2003. It is a general knowledge that in our country the financial year starts from July and ends next year in June and accordingly all the Government departments follow the suit in financial matters. The allegations in the old reference regarding embezzlement in the G.P Fund are understood to belong to the year commencing from July 2002 to June 2003, hence the allegations in the instant reference cannot be said to be the same, attracting *prima facie* the principle of double jeopardy. More so, the reference in Accountability Court Hyderabad has not ended either in conviction or acquittal of the petitioners to attract such argument. However, we still leave this question to be examined and decided in accordance with law by the trial Court during the trial in the light of evidence adduced in this regard by the parties. In view of above discussion, we do not see any merits in the C.P Nos.D-3526, 3538, 3818, 3965, 4310 and 4377 of 2014, which are dismissed accordingly.

13. The case of petitioner Nasrullahin C.P No.D-3250 of 2014, however, is found to be based on different footings. During the investigation, it has been established that the cheque No.A-0936482, which was allegedly misused to receive an amount of Rs.1.559 million was given by him to his friend Mohammad Aslam in June 2003, who was



called by the Investigating Officer for investigation before whom he admitted to have received the subject cheque from petitioner Nasrullah and used it for encashment of above amount with the connivance of petitioner Noor Mohammad Ujjan. He (Mohamamd Aslam) had submitted plea bargain application to return the amount of Rs.780,000/- being the 50% of entire embezzled amount, which was duly presented before the Accountability Court, where during the arguments, the said application was withdrawn by the Prosecutor NAB. The application of plea bargain is the part of record and suggests further enquiry into the guilt of petitioner Nasurullah. Under the circumstances, we allow his petition and confirm his bail on same terms and conditions.

14. While directing the Accountability Court to proceed with the matter on day to day basis as provided under the NAB, Ordinance 1999, we must make it clear that above are the observations tentative in nature and shall not be read to have any bearings on merits of the case during the trial.

**JUDGE**

**JUDGE**