

Form No: HCJD/C-121.

ORDER SHEET
ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT

Writ Petition No.09 of 2020

Syed Haseeb Hussain.
Vs
National Accountability Bureau, through its Chairman, Islamabad,
and 02 others.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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28.01.2020.	<p>Petitioner in person alongwith his counsel Mr. Sher Afzal Khan Marwat, Advocate.</p> <p>Barrister Rizwan Ahmad, Special Prosecutor, NAB.</p> <p>Abdul Rehman Tayyab, A.D. NAB.</p>
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Through the instant petition, the petitioner seeks bail before arrest.

2. At the very outset, learned Special Prosecutor, NAB, *inter alia*, contends that in the inquiry being conducted against the petitioner for the time being the warrant of arrest of the petitioner has not yet been issued, hence the instant petition is premature. In response, learned counsel for the petitioner contends that though this is the position at the moment that the NAB Authorities do not wish to arrest the petitioner in the inquiry pending against him, however it is apprehended that they may arrest him without any prior intimation. Learned counsel placed reliance on an order passed by the Hon'ble Supreme Court of Pakistan in C.M.A

3930/2018 vide order dated 10.08.2018. It was also contended that any action taken by the respondent without prior intimation or knowledge would be in violation of his fundamental rights including Articles 9,10&10-A of the Constitution. Learned counsel also placed reliance on **"Muhammad Sharif vs. The State" (PLD 2009 SC 709), "Muhammad Aslam vs. DPO Rawalpindi" (2009 SCMR 141), "Ameen Masih vs. Federation of Pakistan" (PLD 2017 Lahore 610) and "Abdul Rasheed Bhatti vs. Government of Punjab" (PLD 2010 Lahore 468).**

3. Learned Special Prosecutor, NAB, *inter alia*, contends that under the NAB Ordinance, 1999 there is no requirement for prior intimation at the time of issuance of warrants of arrest and their execution. Reliance was placed on order dated 19.03.2019 passed by the Hon'ble Supreme Court of Pakistan in CP No. 18 of 2017.

4. Since NAB has made a statement that arrest of the petitioner is not required at the present time, the instant petition is premature, hence is disposed of accordingly. In so far as the request on behalf of the petitioner is concerned regarding awarding due protection to the petitioner, it is pertinent to observe that Hon'ble Supreme Court of

Pakistan in CP No. 18 of 2017 vide order dated 19.03.2019 clarified that no limitation has been imposed upon NAB under NAB Ordinance 1999 regarding first informing the accused before arresting him. However, it is also observed by the august apex Court that the NAB is expected not to misuse the power. The referred order of the Hon'ble Supreme Court of Pakistan is subsequent in time to the earlier order passed in C.M.A 3930/2018 and C.M.A 5335/2018 in Suo Motu case No. 18 of 2010, hence holds the field.

5. In light of the observation by the Hon'ble Supreme Court of Pakistan, it is observed that NAB shall act in accordance with law i.e. strictly under the provisions of NAB Ordinance 1999, if and when it desires to carry out the arrest of the petitioner.

(GHULAM AZAM QAMBRANI)
JUDGE

(AAMER FAROOQ)
JUDGE