

ORDER SHEET
ISLAMABAD HIGH COURT
ISLAMABAD

Writ Petition No.1119/2020

Naeem Shakir
Versus
The State through Chairman NAB Islamabad etc

S.No. of order/ Proceeding	Date of hearing	Order with signature of Judge, and that of parties or counsel, where necessary.
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21.05.2020. S.A. Mahmood Khan Saddozai, Advocate for petitioner.
Rana Zain Tahir, Special Prosecutor NAB.
Seemab Qaiser, I.O, NAB.

Through this writ petition, Petitioner has prayed for his post arrest bail in reference No.07/2017 pending with the Accountability Court, Islamabad.

2. The brief facts referred in the instant writ petition are that NAB has investigated the M/s Stock Street Private Limited (SSL) registered with Securities and Exchange Commission of Pakistan (SECP), Islamabad. As per investigation report dated 16.2.2017 and record of SECP different investors filed complaints against the said M/s SSL regarding non-transfer and non-delivery of securities and misappropriation of invested money and as such the petitioner has been charged with the offence of criminal breach of trust.

3. Learned counsel for the petitioner contends that this is a 3rd post arrest bail application of the Petitioner who was arrested on 20.11.2017 in reference No.07/2017 which is pending before the NAB Court. It is further contended that first bail application of the Petitioner was dismissed on merit vide order dated 20.12.2018 in W.P.No.4115/2018 and second post arrest bail application was dismissed as

withdrawn on 16.1.2020 through W.P.No.4207/2019. It is further contended that learned trial Court has not yet concluded the trial despite clear directions of this Court and case of the Petitioner falls within hardship case as highlighted in **Tallat Ishaq case reported as PLD 2019 SC 112** specially when Petitioner is incarceration for more than 28 months.

4. Conversely, learned Special Prosecutor NAB contends that statements of 09 witnesses have been recorded in this case in the pending reference and even after the dismissal of 2nd post arrest bail application in January, 2020, statements 05 witnesses have been recorded whereas most of the adjournments were sought by the Petitioner, resultantly trial could not be concluded and bail could not be granted due to delay as referred in **Tallat Ishaq case reported as PLD 2019 SC 112.**

5. Arguments heard. Record perused.

6. Perusal of record reveals that Petitioner was arrested on 20.11.2017 by the NAB authorities in reference No.07/2017 wherein charge has been framed by the Accountability Court and so far statements of 09 witnesses have been recorded out of 146 prosecution witnesses. The first post arrest bail application of the Petitioner was dismissed on merit vide order dated 20.12.2018 in W.P.No.4115/2018. The background of the case reflects that Petitioner being Director M/s Stock Street Private Limited was also signatory of company bank account maintained in the name of said company and he in connivance with co-

accused dishonestly and fraudulently installed two accounting softwares in computer system of the company with malafide intention to deceive the regulators and investors and also illegally misappropriated the hard earned money of the investors by way of not purchasing their shares from the Central Depository Company and even by not making trade orders in Karachi Automated trading system provided by Pakistan Stock Exchange. Petitioner conducted fake trading and misappropriated the amounts of investors while committing the offence of criminal breach of trust. This background of the case prima facie shows the involvement of petitioner in the alleged scam, therefore, case reported as **PLD 2019 SC 112 (Tallat Ishaq Versus Additional Accountability Bureau etc)** is fully attracted in this regard:-

- f) Ordinary bail is allowed to an accused person on the ground of delay only where the delay in the trial or the period of custody of the accused person is shocking, unconscionable or inordinate and not otherwise. The primary consideration for grant of bail on the ground of such delay is undue hardship and more often than not prima facie merits of the case against the accused person are also looked into before admitting him to bail on the ground of delay.*
- g) Before admitting an accused person to bail on the ground of hardship caused by a shocking, unconscionable or inordinate delay*

a High Court or this Court also looks for the reasons for the delay and if some significant or noticeable part of the delay is found to be attributable to the accused person then the relief of bail is withheld from him.

7. While considering the above background the petitioner is neither entitled for grant of bail on the ground of hardship nor inordinate delay in conclusion of the trial is visible, trial is now going on a fast track after January, 2020, therefore, in these circumstances instant writ petition is not maintainable and same is hereby ***dismissed*** with direction to the learned trial Court to conclude the trial of this case within six months under intimation to this Court.

(LUBNA SALEEM PERVEZ)
JUDGE

(MOHSIN AKHTAR KAYANI)
JUDGE

M.S.Zaki.