

Form No: HCJD/C-121.

ORDER SHEET
ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT

Writ Petition No. 1898 of 2020

Muhammad Bilal Sheikh

Vs

Chairman, National Accountability Bureau, etc.

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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29.09.2020.

Petitioner in person.

Mirza Mehmood Ahmed, Mr. Aziz-ur-Rehman Farooqi and Mr. Saad Ullah Tahir, Advocates for the petitioner.

Rana Zain Tahir, Special Prosecutor, NAB.

Mr. Ahsan Hameed Dogar, Advocate for respondent No.5.

Muhammad Raheel Azam, Deputy Director/I.O, NAB.

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, the warrants of arrest of the petitioner has not yet been issued for the time being, 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, yet it is apprehended that they might arrest him without any prior intimation. Learned counsel placed reliance on an order dated 10.08.2018 passed by the Hon'ble Supreme Court of Pakistan in C.M.A

3930/2018. It was also contended that any action taken by the NAB without prior intimation or knowledge would be in violation of fundamental rights of the petitioner enshrined in 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 categorically submitted that arrest of the petitioner is not required at present; the instant petition is premature, hence is **disposed of** accordingly.

5. In so far as the request on behalf of the petitioner regarding awarding due protection to the petitioner is concerned, it is pertinent to observe that Hon'ble Supreme Court of Pakistan in C.P. No. 18 of 2017, vide order

dated 19.03.2019, clarified that no limitation has been imposed upon NAB under NAB Ordinance 1999 regarding 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.

6. In light of the observations 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 arrest the petitioner. There is no cavil with the principles laid down in case law relied upon by learned counsel for the petitioner, however, the same are not attracted in the facts and circumstances of the case.

**(AAMER FAROOQ)
JUDGE**

**(GHULAM AZAM QAMBRANI)
JUDGE**