

**ORDER SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

W.P. No.124 of 2020  
Khawaja Abdul Ghani Majid  
Versus  
National Accountability Bureau and 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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13.02.2020

**Mr. Muhammad Jamshaid Malik, Advocate for the petitioner.**

**Barrister Rizwan Ahmed, Special Prosecutor, N.A.B.**

**Mr. Ahmad Bin Zahid, Deputy Director, N.A.B.**

**Mr. Muhammad Qasim, Assistant Director/Investigation Officer, N.A.B.**

Through the instant writ petition under Article 199 of the Constitution, the petitioner, Khawaja Abdul Ghani Majid, seeks the grant of post arrest bail on medical grounds.

2. Learned counsel for the petitioner submitted that the petitioner was arrested by the Federal Investigation Agency ("F.I.A.") on 15.08.2018 in F.I.R. No.4/2018, registered at the F.I.A., State Bank Circle, Karachi; that after being on physical remand for thirteen days, the petitioner was shifted to Jinnah Post Medical Centre ("J.P.M.C."), Karachi on 28.08.2018 as he was experiencing extreme pain and excessive bleeding; that the F.I.A. denied the petitioner for follow up by competent doctors; that pursuant to the orders passed by the Hon'ble Supreme Court in H.R.C. No.39216-G/2018, the petitioner was examined by the Surgeon General of Pakistan; that in the medical report dated 22.09.2018, it was recommended that the petitioner required surgical management for hemorrhoids; that it was also observed that the petitioner had a family history of colonic carcinoma; that subsequently, the petitioner was shifted to Rawalpindi Central

Prison, Adyala for the purposes of interrogation; that no medical follow ups or attendance was afforded to the petitioner; that the petitioner was kept in solitary confinement in poor dietary conditions; that in poor health, the petitioner was shifted to Karachi to appear before the learned Special Court at Karachi; that the petitioner's medical examination under anesthesia was conducted by J.P.M.C. and a nodule was found and removed from histopathology; that despite the fact that the petitioner needed long overdue surgeries, the officials of the National Accountability Bureau ("N.A.B.") shifted him to Islamabad; that the results of the histopathology showed that the petitioner was diagnosed stage-one colon cancer; that the medical board constituted pursuant to the orders passed by the learned Accountability Court recommended urgent hospitalization of the petitioner; that the Superintendent of Rawalpindi Central Prison, Adyala did not provide the requisite medical attendance to the petitioner; that the medical board had also recommended for an MRI to be conducted in order to clearly identify the stage of the petitioner's cancer; that a PET CT Scan and colonoscopy was also recommended to be carried out by the medical board; that the petitioner's cancer seems to have spread to his lungs; that the medical board, in its letter dated 06.11.2019, recommended that the petitioner be shifted to Agha Khan University Hospital under the supervision of the medical board; that the medical board, in its report dated 20.11.2019, observed that the petitioner's medical condition was *"extremely worrisome and possibly shows that the cancer has materialized from the anal canal to the lungs"*; that the petitioner had filed

writ petition No.2064/2019 for his release on bail in reference No.2/2019, which petition was dismissed by this Court vide judgment dated 10.10.2019; and that thereafter, N.A.B. had filed a supplementary reference before the Accountability Court.

3. Learned counsel for the petitioner further submitted that due to the deteriorating life threatening medical condition from which the petitioner was suffering, he ought to be granted post-arrest bail. Learned counsel for the petitioner prayed for the writ petition to be allowed in terms of the relief sought therein.

4. On the other hand, learned Special Prosecutor, N.A.B., assisted by Mr. Muhammad Qasim, Investigation Officer, submitted that the petitioner was being tried for having laundered billions of rupees; that the petitioner is not of an advanced age and his ailment is such that he can be treated in jail; that if the petitioner is released on bail, there is a likelihood of his absconsion; and that other references are also in the process of being filed against the petitioner. Learned Special Prosecutor, N.A.B. prayed for the writ petition to be dismissed.

5. We have heard the contentions of the learned counsel for the petitioner as well as the learned Special Prosecutor, N.A.B. and have perused the record with their able assistance.

6. The petitioner has been incarcerated ever since 15.08.2018. He is one of the accused in Accountability Reference No.2/2019, which is pending before the learned Accountability Court at Islamabad.

7. This petition was first taken up for hearing on 20.01.2020, whereon this Court directed the Executive Director, Pakistan Institute of Medical

Sciences to constitute a medical board in order to examine the petitioner and submit a report within a period of ten days. In compliance with the said order, a three-member medical board comprising Dr. Qasim M. Buttar (Head of Oncology Department), Dr. Mashood Ali (Head of Gastro Department) and Dr. Muhammad Faheem (Assistant Professor of General Surgery) was constituted.

8. The medical report was submitted on 07.02.2020. The recommendations and findings of the medical board are as follows:-

*“The board recommended the following in view of current examination/review, in line of previous recommendations*

- *FDG-PET/CT Scan.*
- *High resolution MRI pelvis with contrast.*
- *Colonoscopy to evaluate extent of disease.*
- *Baseline investigations ( Blood test)*
- *Endoluninal U/S*
- *CEA level.*

*The board is of the view that patient should undergo above mentioned investigations at the earliest so that definitive treatment plan can be formulated.*

**Considering biopsy proven cancer & CT Scan findings any further delay will be definitely detrimental for chances of cure of cancer.**

*Furthermore the board deliberated that due to unavailability of FDG-PET/CT, high resolution MRI in the region, patient may be sent to AKUH or primary treating medical board for all the investigation/work up / treatment.”*

**(Emphasis added)**

9. Having gone through the medical report submitted on 07.02.2020, we are of the view that the petitioner’s ailment is such that cannot be properly treated while in custody in jail. The petitioner requires specialized treatment and his continuous detention in jail is likely to be hazardous to his life. Therefore, bearing in mind the law laid down in the cases of Muhammad

Yousafullah Khan Vs. State (PLD 1995 S.C. 58) and Muhammad Saeed Mehdi Vs. The State (2002 SCMR 282) and the contents of the medical report submitted on 07.02.2020, the instant writ petition is allowed and the petitioner is granted bail on medical grounds subject to furnishing surety bonds in the sum of Rs.1,00,000,000 (Rupees one hundred million) with one surety in the like amount to the satisfaction of the learned Accountability Court No.II, Islamabad. The petitioner shall appear before the learned Accountability Courts on every date of hearing unless exempted by the Courts. Additionally, the petitioner shall cooperate with and appear before the Investigation Officer as and when he is required for questioning. The Investigation Officer shall continue to retain the petitioner's passport and his name shall continue to remain on the Exit Control List.

(MIANGUL HASSAN AURANGZEB)  
JUDGE

(FIAZ AHMAD ANJUM JANDRAN)  
JUDGE

Ahtesham\*