

**ORDER SHEET**

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

**W.P No.282/2020**

Ghulam Qadir Mari

*Versus*

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.
	17.12.2020	M/s Farooq H. Naek and Mr. Aqeel Akhter Raja, Advocates for the petitioner. Rana Zain Tahir, Special Prosecutor NAB. Ahmad Bin Zahid, Assistant Director, NAB.

**MOHSIN AKHTAR KAYANI, J.** Through this writ petition the petitioner has applied for pre-arrest bail in pending inquiry before NAB, Islamabad/Rawalpindi regarding corruption and corrupt practice in opening /operation of fake bank accounts.

2. The details provided in the instant case are that with reference to fake bank account matter was referred to NAB by the Apex Court vide order dated 07.01.2019 in IIRC No.39216-G/2018, whereby NAB was directed to conduct inquiry, investigation and to file reference, as a result whereof competent authority of NAB has authorized the inquiry against the holders of public office, legal persons and others regarding corruption and corrupt practices in opening/operation of fake bank accounts vide letter dated 22.03.2019.

3. During the course of inquiry, it appeared that

petitioner received an amount of Rs.15 million approximately through six banking instruments from fake bank accounts known as Logistic Trading, Umair Associates and Ibrahim Linkers from Summit Bank Ltd. Khayaban-e-Tanzeem Branch, Karachi, Sindh Bank, Gole Market Branch and Sindh Bank, Khayaban-e-Shehbaz Branch respectively. The inquiry officer has also taken over the laptop/hard disk from one of accused Aslam Masood, which reveals that six payments have been made to present petitioner for purchase of land at Hussainabad. A call up notice was issued to the petitioner for his explanation, although no warrant of arrest has been issued.

4. Learned counsel for the petitioner contends that petitioner is a sugar cane grower being agriculturalist and member of District Council Tando Allahyar, Sindh, who owns joint family land measuring 400 arcs at Taluka Chamber, District Tando Allahyar; that petitioner also holds agriculture lands on Mukata (lease) measuring 700 acres at Taluka Jhando Mari, about 800 acres at Taluka Chamber and 700 acres situated at Taluka Matli, District Badin and as such he is doing agriculture business, who grows sugarcane, banana, cotton, wheat, etc.; that petitioner has supplied sugarcane to Tando Allahyar Sugar Mills (Pvt.) Ltd. (hereinafter referred to as TASM) and against said supply he received different amounts through banking instrument from TASM and some of the amounts referred by the NAB, which were received from CFO TASM namely Aslam Masood and as such he has no

relationship whatsoever with Logistic Trading, Umair Associates and Ibrahim Linkers; that proposed action of NAB is based upon malafide and harassment whereby NAB authorities are trying to link the petitioner with fake bank accounts in order to establish false link with Asif Ali Zardari, Faryal Talpur, etc. against whom reference No.02/2019 is pending before the Accountability Court, Islamabad.

5. Conversely, learned Special Prosecutor, NAB contends that petitioner is sugarcane grower to the extent of his lands but the payments which he received from TASM were verified, however, six instruments which have been referred in the NAB record contains approximately Rs.15 million which were transacted through fake bank accounts of Logistic Trading, Umair Associates and Ibrahim Linkers, which have been transmitted by the accused Aslam Masood to the present petitioner for purchase of land at Hussainabad Farms being benami, therefore, petitioner is directly involved in corruption and corrupt practices in terms of NAO, 1999; that no warrant of arrest has been issued by the NAB against the petitioner, however, petitioner has still not satisfied the NAB during the inquiry regarding his relationship with Aslam Masood CFO of Omni Group including TASM; that TASM has denied the issuance of these six instruments as per their record.

6. We have heard the arguments and perused the record.

7. From the tentative assessment of record, it reveals that the petitioner has been summoned through call up notice U/S 19 of NAO, 1999 in inquiry against the holders of public office, legal persons and others regarding corruption and corrupt practices in opening/operating of fake bank accounts vide letter dated 21.06.2019 and 15.01.2020, however, during the course of inquiry a particular reference has been made in the call up notice to the petitioner to explain his point of view with justification as to how and under what circumstances petitioner has received an amount of Rs.15 million approximately from fake bank accounts of Logistic Trading, Umair Associates and Ibrahim Linkers. The details provided in the report dated 11.03.2020 is as under:-

Sr.#	Date	Instrument No	Amount (Rs)/ Account	Fake Bank Account Title	Bank/Branch
a.	23.02.2015	5415279	900,000.00 A/c 2690060000219 Faysal Bank	Logistic Trading	Summit Bank Limited, Khayaban-e-Tanzeem Branch, Karachi
b.	23.02.2015	5415280	3,600,000.00 2690060000219 Faysal Bank		
c.	23.02.2015	5415281	3,017,500.00 2690060000219 Faysal Bank		
d.	26.02.2015	11986689	500,000.00 A/c 0407-072496-1000 Sindh Bank		
e.	28.11.2014	1595469	1,000,000.00 A/c 0407-072496-1000 Sindh Bank	Umair Associates	Sindh Bank, Gole Market Branch

8. The petitioner while appearing before the inquiry officer has taken a categorical stance that he is sugarcane grower and owns joint family lands measuring 400 arcs at Taluka Chamber, District Tando Allahyar; that petitioner also holds agriculture lands on Mukata (lease) measuring

700 acres at Taluka Jhando Mari, about 800 acres at Taluka Chamber and 700 acres situated at Taluka Matli, District Badin and as such he is doing agriculture business, who grows sugarcane, banana, cotton, wheat, etc. He has also taken specific stance that he has supplied the sugarcane to TASM for the past many years and has received payments through banking channel in millions for the crushing season 2014-2015, which are approximately Rs.15,145,365.40 through 150 transactions. The six instrument referred above have been denied by the TASM as the said cheques were not issued by the said mill rather they have provided separate certificate in which it has been referred that cheques were issued by Aslam Masood, this fact has been confronted to the inquiry officer, who states that he verified the supply of sugarcane to the TASM and has not found any false and frivolous or suspicious transaction in the relationship of sugarcane to TASM but these six banking instruments have not been verified, which were issued from Logistic Trading, Umair Associates and Ibrahim Linkers, which are fake bank accounts. In this regard petitioner has taken a categorical stance that all these six instruments were given by Aslam Masood CFO of TASM, who is accused in reference No.02/2019, pending adjudication before the Accountability Court-II, Islamabad.

9. We have confronted the inquiry officer as to whether said six instruments have been confronted to the Aslam Masood, whereby it has been stated at the bar that

said accused has been passed away during proceedings and as such said six instruments could not be verified but the same were used for the purchase of land/shares in Hussainabad Farms in four benami persons.

10. The inquiry officer as well as Special prosecutor NAB have been confronted as to whether petitioner has ever received any benefit through any transaction other than his plea of sugarcane supply or any property or land has been purchased in his name in Hussainabad Farms, the inquiry officer has denied this fact and states that he has not yet come to the conclusion that petitioner is a beneficiary of those benami lands.

11. We have asked the inquiry officer to place any periodical record of rights, mutations or any other land instrument under the Land Revenue Act to verify that land was transferred or purchased by petitioner through fake bank account for his own use or for the use of any of his ostensible owner. The Inquiry officer has failed to demonstrate any such transaction rather states that such type of evidence is not yet available, hence, this Court comes to the conclusion that it is case of further inquiry. The *prima-facie* allegation against the petitioner does not attract any corruption or corrupt practices in opening/operating of fake bank account of Logistic Trading, Umair Associates and Ibrahim Linkers, even he has not denied the receiving of six instruments which were provided by Aslam Masood Late, who was CFO of TASM and even the said banking instruments were issued in the

same period when petitioner has supplied sugarcane to the TASM. In such eventuality the matter could not be resolved without recording of pro and contra evidence in the trial Court, such aspect demonstrate case of further inquiry, hence, any attempt to arrest the petitioner by the NAB under the NAO, 1999 is considered to be an indication of harassment. In such circumstances, petitioner is entitled for pre-arrest bail. Reliance is placed upon 2017 CLD 1101 (Alamdar Hussain Vs. NAB).

12. The inquiry officer in process of collection of tangible evidence, could not collect any concrete evidence to connect the petitioner with the crime and present petitioner is considered to be at the tail end, he has received certain payments on the pretext of supply of sugarcane to the TASM, who has some nexus with the other co-accused facing trial before the Accountability Court-II, Islamabad. It is trite law that when case of further inquiry comes on record, pre-arrest bail which is an extraordinary relief is available to only those cases where malafide on the part of complainant or investigation agency is reflected on record though the malafide is often difficult to prove and could be inferred from facts and circumstances concerning a particular case. Reliance is placed upon 2019 YLR 1865 (Aftab Ahmed Memon Vs. The Chairman, NAB). As such no loss has been caused by the petitioner to the public exchequer nor this allegation was leveled by the NAB, therefore, while relying upon 2019 YLR 650 (Mustafa Jamal Kazi Vs. NAB), 2019 YLR 1878 (Muhammad Idrees Vs. NAB), 2018 YLR Note 293

(Ghazanfar Ali Vs. Chairman NAB, Islamabad), 2019

P.Cr.L.J 475 (Jameel Akhtar Vs. Chairman NAB), 2019 YLR

Note 92 (Mansoor Ahmed Rajput Vs. DG NAB Sindh) we

are of the view that if petitioner is arrested he will face humiliation and harassment at the hands of NAB especially when there is no substantial material to connect the petitioner prima-facie with the alleged crime, hence, ad-interim pre-arrest bail granted to the petitioner vide order dated 30.01.2020 is hereby confirmed. The petitioner is directed to furnish bail bonds in the sum of Rs.5,00,000/- (Rupees Five Lac only) with one surety in the like amount to the satisfaction of learned Deputy Registrar (Judicial) of this Court. However, if NAB authorities at some later stage come up with any tangible material or incriminating material against the petitioner they can approach this Court for cancellation of pre-arrest bail granted to the petitioner.

(FIAZ AHMED ANJUM JANDRAN)  
JUDGE

(MOHSIN AKHTAR KAYANI)  
JUDGE

Zahid