

JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P. No. 4453/2019.

Tariq Sharif Bhatti

Versus

Director General FIA, Islamabad, etc.

Petitioner by: Raja Rizwan Abbasi, Advocate.

Respondents by: Raja M. Aftab Ahmed, AAG.
Syed Junaid Jaffar, Law Officer, NADRA.
Shabbir Ahmed Shigri, Deputy Director Law, FIA.

Date of Decision: 20.03.2020.

MOHSIN AKHTAR KAYANI, J: Through this writ petition, the petitioner has prayed for the following relief:-

That actions of respondents wherein CNIC No.37401-8338315-5 of petitioner has been blocked and name of petitioner has been placed on passport blacklist may graciously be declared illegal, unlawful, contrary to law, void ab-initio and consequently, writ may graciously be issued to unblock the CNIC of petitioner and set-aside the action of blacklisting of passport No.BA5123153 of petitioner.

That concept of blacklisting of name of any person for future passport facilities may kindly be declared to be ultra vires to constitution of Islamic Republic of Pakistan, illegal and unlawful.

Any other relief which this Hon'ble court may deem fit and proper may also be awarded to the petitioner in the interest of justice.

2. Brief facts referred in the instant case are that petitioner has been nominated as accused in case FIR No.23, dated 04.11.2013, U/S 31 of Pakistan Telecommunication (Re-Organization) Act, 1996 read with Sections 36/37 of ETO, 2002 read with Section 109 PPC, P.S. FIA/Cyber Crime Circle, Rawalpindi/Islamabad.

3. The petitioner was in Mauritius and filed writ petition No.3408/2019 seeking protection order of this Court in order to reach the concerned trial Court, whereby proceedings U/S 512 Cr.P.C. have been initiated against him. The said

petition was disposed of; petitioner came to Pakistan and has joined the proceedings before the concerned Court, however, at that time learned trial Court vide order dated 04.11.2019 passed the following observations:-

Before parting with this order, it is important to mention here that challan u/s 512 Cr.P.C. submitted against accused/petitioner was summoned and perpetual non-bailable warrants of arrest of petitioner/accused were cancelled. Record reveals that all the other co-accused either have been acquitted or discharged from the case and the case of present accused/petitioner is at-par with other co-accused. Since the co-accused namely Muhammad Abdul Qadeer and Rizwan Younas have been discharged from the case and report u/s 173 Cr.P.C. has been returned to the prosecution vide judgment dated 23.09.2019 and trial cannot be commenced unless the said judgment is suspended, therefore, keeping in view the above said observations as well as judgment dated 23.09.2019 of this Court, the challan u/s 512 Cr.P.C. is also returned to the prosecution with the direction to avail proper remedy as per judgment dated 23.09.2019 passed by this Court. Copy of this order be annexed with the file of challan case. Copy of this order be also forwarded to the District Public Prosecutor, Rawalpindi for information. File be consigned to the record room after necessary completion.

4. Due to above mentioned criminal case petitioner's CNIC was blocked and his passport No.BA5123153 was also placed in the blacklist on the recommendation of FIA, therefore, notice was issued to respondents/NADRA and FIA and in compliance of notice, FIA submitted written report and has recommended the unblocking of CNIC as well as passport of petitioner. The relevant extract of the report is as under:-

The matter was discussed in a meeting chaired by the Additional Director Cyber Crime Centre, Rawalpindi, a brief legal opinion in the instant matter was given by the Deputy Director Legal CCRC, Rawalpindi according to which the department has no objection regarding unblocking of passport of the petitioner, but keeping in view the previous conduct of the petitioner, who was absconder for almost five years from the Law enforcement agencies as well as the competent courts, sureties are required that in case of requirement of the petitioner in above mentioned proceedings he will be available to the agency when and where required.

5. While considering the above background, FIA has also issued letter to the Director General, NADRA for unblocking of CNIC of the petitioner as well as other co-accused due to the fact that no criminal case is pending against the petitioner at this stage as his co-accused namely Naeem Abbas Anjum and Ali Khalid have been acquitted by the trial Court vide judgment dated 24.05.2017 and the said order has been maintained by Lahore High Court Rawalpindi Bench, Rawalpindi vide judgment dated 26.02.2019, passed in Crl. Appeal No.770/2017. Similarly, other two co-accused namely Muhammad Abdul Qadeer Awan and Rizwan Younas have been discharged from the said criminal case vide judgment dated 23.09.2019, passed by learned Additional Sessions Judge, Rawalpindi and case of petitioner has been taken into account by learned Additional Sessions Judge, Rawalpindi in his pre-arrest bail application vide order dated 04.11.2019 and observed all these developments.

6. In view of above, learned AAG alongwith Deputy Director Law, FIA contend that they have no objection on the unblocking of CNIC of petitioner as well as removal of petitioner's passport from blacklist, even Law Officer NADRA in attendance contends that as and when NADRA receive the letter, CNIC of petitioner will be unblocked.

7. Keeping in view the above position, instant writ petition is allowed as prayed for and Director General Emigrations and Passport is directed to remove the name of petitioner from blacklist and Director General NADRA is directed to unblock the CNIC of petitioner within period of thirty (30) days under intimation to this Court.

(MOHSIN AKHTAR KAYANI)
JUDGE

Zahid