

**ORDER SHEET.**

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

**Crl.Misc. No.621-B/2019.**

Tariq Mahmood Shah

**Versus**

The State etc.

**Crl. Misc. No.633-B/2019.**

Asif Rehman

**Versus**

The State, 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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18.10.2019. Ms. Qurratul Ain Ayesha, Advocate for the petitioner in Crl. Misc. No.621-B/2019.  
Raja Rizwan Abbasi & Mr. Faisal Nawaz, Advocates for the petitioner in Crl. Misc. No.633-B/2019.  
Barrister Mumtaz Ali, AAG.  
Mr. Faisal Bin Khurshid, Advocate for respondent No.2/IESCO.  
Sajid, Inspector, FIA/I.O alongwith record.  
Respondent No.2 in person.

Through this single order, I intend to decide above titled two post-arrest bail petitions, as both these petitions have arisen out of FIR No.10/19, dated 02.08.2019, U/S 420, 464, 468, 471, 473, 419, 409, 109 PPC read with section 5(2) PCA, 1947 Police Station FIA, Anti Corruption Circle, Islamabad.

2. Brief facts as referred in the FIR are that consequent upon enquiry No.90/2019 of P.S. ACC FIA, Islamabad, it transpired that Mr. Muhammad Naeem Ex-RO-1, IESCO Sub-division-1, Islamabad, Khalid Mehmood, Commercial Assistant, CSO-1, IESCO Div-1, Islamabad, Muhammad Rafique, the then Accounts Assistant RO-1, IESCO Sub-division-1, Islamabad and Gul Khatab (a private person) in connivance with each other prepared and posted bogus scrolls relating to IESCO Consumer

Bills using fake statements alongwith bill stubs with fake bank stamps of an amount of Rs.43 Million (approximately) in the month of June 2019 only. They also got cleared and verified all these bogus scrolls and stubs and reconciled these with the bogus monthly bank statements through Mr. Khalid Mehmood Commercial Assistant. These cleared and reconciled bogus scrolls and fake bank statements were then forwarded for further posting in the IESCO online system at Computer Section. As per interim report of IESCO Departmental Enquiry Committee, said amount has been found as Rs.207,752,411/- for a period from July 2018 to June 2019. Hence, these persons have allegedly caused colossal loss to national exchequer by misuse of authority, criminal misconduct and breach of trust. The above narrated facts prima facie constitute offences U/S 420, 464, 468, 471, 473, 409, 109 r/w 5(2) of PCA 1947. Therefore, after approval, a case has been registered against (1) Muhammad Naeem, RO IESCO Sub-Division Taxila (2) Kahlid Mehmood, Commercial Assistant, CSO-1, IESCO Sub-Division-1, Islamabad (3) Muhammad Rafique, Accounts Officer, IESCO Sub-Division, Talagang, Distt. Chakwal and (4) Gul Khatab (37405-3458017-1) r/o Jan Colony, Tench Bhatta, Rawalpindi.

3. Learned counsel for the petitioner Tariq Mahmood Shah in Crl. Misc. No.621-B/2019 contends that the petitioner is not nominated in this case and he was involved in this case through subsequent statement of Shuja Ahmed, who is Manager of Shah Baba CNG Kurri Road, Eden Marquee ITP Road New Katarian, M. S. Jilani Enterprises CNG Tramry Chowk Islamabad and Round Two Plazas situated in P.W.D Colony Islamabad; that the petitioner has handed over the bills of Shuja Ahmed for onward transmission to the relevant authorities of bank and IESCO as such he has not claimed any benefit and nothing was recovered

from the petitioner to link him with the alleged crime of fraud and causing loss to public ex-chequer; that the offences with which the petitioner has been charged do not fall within prohibitory clause of section 497 Cr.P.C and as such the role of the petitioner has not been explained in any manner, which attracts provisions of section 497(2) Cr.P.C as of further inquiry; that the petitioner is behind the bars since 07.08.2019 and he is no more required for the purpose of further investigation.

4. Learned counsel for petitioner Asif Rehman in Crl. Misc. No.633/2019 contends that the petitioner is not nominated in the FIR rather he was involved on the statement of co-accused and as per FIR he has only referred stamp maker, who is doing business in Karachi Company from where principal accused got prepared fake seals of IESCO although nothing incriminating was recovered from the petitioner or from the possession of Ali Enterprises from where it was alleged that the petitioner got arrested the principal accused; that petitioner Asif Rehman is Account Assistant in Finance Directorate of IESCO, who has no role in receiving and preparation of bogus scroll, entry of computerized data or reconciliation of finance statement of alleged embezzled amount; that the offences with which the petitioner has been charged do not attract prohibitory clause of section 497 Cr.P.C; that the petitioner is behind the bars for the last two months, investigation has been completed and he is no more required for the purpose of further investigation

5. Conversely, learn AAG as well as learned counsel for respondent No.2/IESCO contends that it is an organized crime, in which accused persons in connivance with officials of IESCO Billing Department, Computer Section, Finance Directorate embezzled Rs.300 Million or above amount and gave financial loss to the public ex-chequer as well as to the individuals by

issuing fake bills; that the petitioner Asif Rehman is employee of IESCO, who is working in Accounts Finance Department and facilitated principal accused for preparation of fake seals from Ali Enterprises G-9 Markaz; that similarly petitioner Tariq Shah has been nominated by Shuja Ahmed from whom he received the bills for commercial unit and business, who gave loss of huge amount to the IESCO; that the petitioners are not entitled for grant of post arrest bail.

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

7. Perusal of the record reveals that the complainant got lodged the FIR with FIA Authorities, which has been registered after detailed inquiry by FIA (ACC). The tentative assessment of the record reveals that Muhammad Naeem Ex-RO-1 IESCO Sub-Division-1, Khalid Mahmood Commercial Assistant CSO-1 IESCO Sub-Division-1, Muhammad Rafique Accounts Officer IESCO Sub-Division-1, Islamabad and Gul Khatab private person in connivance with each other prepared and posted bogus scrolls relating to IESCO Consumer bills using fake accounts, managed and reconciled all the bogus monthly statements from the offices of IESCO, Computer Section, Finance Directorate through facilitation in the online system and as a result of the same loss of Rs.300 million or above has been caused to public ex-chequer as well as IESCO.

8. The allegations referred in the FIR reveal that petitioner Tariq Shah is a private person and petitioner Asif Rehman is Account Assistant of IESCO, who are not nominated accused in the FIR at first instance, however, both the petitioners have been nominated through supplementary statements. Petitioner Asif Rehman was nominated through statement of his co-accused in which it was alleged that he has recommended Ali Enterprises situated in G-9 Markaz for preparation of the seals of IESCO,

which have been used for the fake billing payment although no direct recovery was effected from the said petitioners nor any incriminating articles have been recovered to connect them with the alleged crime except the statement of co-accused, whereas the effect of statement of co-accused against co-accused has been considered at the trial stage, although the statement can be utilized if corroborated through independent incriminating evidence against the petitioner. Reliance is placed upon 2001 SCMR 14 (The State vs. Syed Abdul Qayyum) and 1997 SCMR 292 (Maula Bux and 8 others vs. The State and 2 others).

9. Besides the above referred position, the petitioner Asif Rehman is although Accounts Assistant Finance Directorate of IESCO but the I.O has failed to point out any evidence or statement through which it can be assumed that he has prepared any bogus scrolls, bills or reconciled the statements in his office to facilitate the principal accused, which is considered to be ground of further inquiry in terms of section 497(2) Cr.P.C, even no incriminating material has been recovered from him to connect him at this stage with the alleged crime.

10. Similarly, I have gone through the record with able assistance of I.O regarding role of petitioner Tariq Shah, who is a civilian and not employee of IESCO, who has been nominated on the statement of Shuja Ahmed, who stated to be manger of Shah Baba CNG Kurri Road, Eden Marquee ITP Road New Katarian, M. S. Jilani Enterprises CNG Tramry Chowk Islamabad and Round Two Plazas situated in P.W.D Colony Islamabad and as per I.O's claim the concession at the rate of 30% on the total bill of the consumer has been extended by the said petitioner, Tariq Shah, who allegedly received the payment from the consumer but the same was not deposited in the bank. This allegation can only be verified during the course of evidence in trial as at this

stage transfer of payment by Shuja Ahmed to petitioner Tariq Shah is prima facie not visible from the record neither their relationship has been highlighted by the I.O. both the petitioners are behind the bars for the last two months and they are no more required for the purpose of further investigation and no useful purpose will be achieved at this stage by placing the petitioners behind the bars due to the fact that investigation to their extent has been completed. The role of above two petitioners requires further inquiry and as such they are entitled for concession of post arrest bail in terms of section 497(2), Cr.P.C. The offences with which the petitioners have been charged do not fall within prohibitory clause of section 497, Cr.P.C.

11. For what has been discussed above, both the titled Crl. Misc. Petitions are allowed. The petitioners are admitted to post arrest bail subject to their furnishing of bail bonds in the sum of Rs.1,00,000/- with one surety each in the like amount to the satisfaction of learned Trial Court.

**(MOHSIN AKHTAR KAYANI)**  
**JUDGE**

R.Anjam