

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE MUSHIR ALAM
MR. JUSTICE YAHYA AFRIDI
MR. JUSTICE QAZI MUHAMMAD AMIN AHMED

**Civil Petition Nos.1017/2021 to 1020/2021,
1077/2021 to 1091, 1093 to 1102/2021,
1123/2021 to 1146/2021, 1278/2021 to
1288/2021, 442-K/2021 and C.M.A. No.418-
K/2021**

(Against the order dated 02.03.2021 in Const. P.D-299/2017, order dated 10.3.2021 in Const. P. Nos. D-599, 546/2019, 4740, 4423/2016, 543, 537/2019, 1262/2020, 443/2018, 541/2019, 3067/2016, 569/2019, 528/2018, 944/2019, , 541/2018, , 493/2018, 472/2018, 923/2018, 473/2018, 497/2018, 460/2018, 644/2018, 627/2018, 474/2018, 423/2018, 1203/2018, 728/2018, 1593/2018, 626/2018, 624/2018, 522/2018, 516/2018, 527/2018, 665/2018, 573/2018, 492/2018, 625/2018, 568/2019, 314/2019, 520/2018, 770/2018, 1376/2019, 1376/2019, order dated 17.3.2021 passed in Const. P. D-1175/2020, 1160/2020, 1243/2020, 1168/2020, 1162/2020, 966/2020, 1157/2020 and order dated 16.3.2018 passed in Const. P. Nos. D-688, 704, 708, 743, 649 and 904 of 2019)

Tariq Ahmed

(in C.P.1017/2021)

Abdul Rasheed Malik

(in C.P.1018 /2021)

Khadim Hussain

(in C.P.1020/2021)

Ali Madad Laghari

(in C.P.1019 /2021)

Agha Khaliq Ahmed Khan

(in C.P.1077 /2021)

Noor Ahmed

(in C.P.1078 /2021)

Asif Iqbal and others

(in C.P.1079/2021)

Bilal Khan

(in C.P.1080/2021)

Inayatullah

(in C.P.1081/2021)

Amir Ali

(in C.P.1082/2021)

Tariq Ahmed Pathan

(in C.P.1083/2021)

Ghulam Ali Gopang and others

(in C.P.1084/2021)

Ghulam Hussain Siming

(in C.P.1085/2021)

Abdul Jabbar Shaikh

(in C.P.1086/2021)

Muhammad Saleem Shaikh and another

(in C.P.1087/2021)

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Asmatullah

(in C.P.1088/2021)

Touseef Ahmad Shaikh

(in C.P.1089/2021)

Sanaullah Memon

(in C.P.1090/2021)

Abdul Shakoor Sheikh

(in C.P.1091/2021)

Muhammad Ali Ujjan

(in C.P.1093/2021)

Irshad Ali Kalhoro and another

(in C.P.1094/2021)

Muhammad Yousif

(in C.P.1095 /2021)

Didar Ali

(in C.P.1096/2021)

Sikandar Ali and another

(in C.P.1097/2021)

Naseer Shah

(in C.P.1098/2021)

Zakaullah

(in C.P.1099/2021)

Munawar Ali and others

(in C.P.1100/2021)

Abid Hussain

(in C.P.1101/2021)

Muhammad Nihal

(in C.P.1102/2021)

Imdad Hussain

(in C.P.1123/2021)

Ghulam Ali Gopang

(in C.P.1124/2021)

Nazar Muhammad and another

(in C.P.1125/2021)

Bilal Khan

(in C.P.1126/2021)

Muhammad Paryal

(in C.P.1127/2021)

Kamran Ali

(in C.P.1128/2021)

Rafique Ahmad

(in C.P.1129/2021)

Imtiaz Ali Mangi

(in C.P.1130/2021)

Fida Hussain Mangi

(in C.P.1131/2021)

Abdullah and others

(in C.P.1132/2021)

Aijaz Ali Rahooju

(in C.P.1133/2021)

Shakeel Ahmad Kalar

(in C.P.1134/2021)

Abdul Jabbar and another

(in C.P.1135/2021)

Shakeel Ahmad

(in C.P.1136/2021)

Mushtaq Ahmad Channa

(in C.P.1137/2021)

Mushtaq Mangi

(in C.P.1138/2021)

Lashkar Khan
(in C.P.1139/2021)
Aamir Ali
(in C.P.1140/2021)
Riaz Nawaz and others
(in C.P.1141/2021)
Ghulam Sarwar and others
(in C.P.1142/2021)
Sajid Hussain
(in C.P.1143/2021)
Naveed Akhtar and others
(in C.P.1144/2021)
Qamar-ud-Din
(in C.P.1145/2021)
Ali Asghar Nagor and another
(in C.P.1146/2021)
Ghulam Shabbir and others
(in C.P.1278/2021)
Asif Ali
(in C.P.1279/2021)
Abdul Razzak
(in C.P.1280/2021)
Asadullah
(in C.P.1281/2021)
Gohar Hussain
(in C.P.1282/2021)
Farman
(in C.P.1283/2021)
Nasrullah
(in C.P.1284/2021)
Ikhlaque Ahmad Joyo and others
(in C.P.1285/2021)
Hafeezullah Peerzado
(in C.P.1286/2021)
Ahsan Ali Memon
(in C.P.1287/2021)
Khalil Ahmed
(in C.P.1288/2021)
Sarwar Hussain
(in C.P.442-K/2021 in C.M.A No.418-K/2021 in C.P.442-K/2021)

...Petitioner(s)

Versus

NAB through its Chairman and others
(in all cases)

...Respondent(s)

| | |
|------------------------|--|
| For the Petitioner(s): | Mr. Shah Khawar, ASC Mr. Mehmood A. Sh, AOR (In CP.1017-1020/2021) |
| | Mr. Zulfikar Khalid Maluka, ASC (In CP.1077-1084, 1095-1102, 1123-1146, 1278-1282/2021) |
| | Mr. Mukesh Kumar G. Karara, ASC Mr. M. Kassim Mirjat, AOR |

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(In CP.1085-1091, 1093-1094/2021)

Malik Mumtaz Hussain Jai, ASC
Mr. Mehmood A. Sh, AOR
(In CP.1283-1288/2021)

Ms. Abida Parveen Channar, ASC/AOR
(In CP.442-K/2021 & CMA.418-K/21)

For the NAB:

Abdus Sattar Awan, Special
Prosecutor, NAB.
Mr. M. Hasan Akbar, Additional
Prosecutor General, NAB
(In all cases)

Date of hearing: 14.04.2021

ORDER

Qazi Muhammad Amin Ahmed, J.- The petitioners are arrayed as accused in different NAB references; they were admitted to bails, both anticipatory as well as post arrest by a learned Division Bench of High Court of Sindh at Sukkur in different Constitution Petitions, allowed on different dates in lieu of deposit of amounts allegedly embezzled by the each petitioner, *vires* whereof are being assailed. With unanimity it is argued that not only the stipulated condition is alien to law but also virtually tantamount to denial of relief that too foreclosing further avenues for the petitioners. The learned Additional Prosecutor General NAB has assailed the impugned orders as well and with reasons more than one. According to the learned Law Officer, there existed irrefutable overwhelming evidence, documentary in nature, in each case that *prima facie* framed the accused with the impugned transactions heavily incurring upon the exchequer; he has further argued that in the absence of any element of *mala fide* there was no occasion for the learned Division Bench to extend judicial protection to the accused merely upon realization of embezzled amounts.

2. Heard.

3. Be that as it may, a wholesale treatment of motions seeking bails, pre-arrest as well as post arrest, in an omnibus manner, in isolation to the distinct facts and circumstances of each case as well as different legal regimes applicable thereto, fails to commend our approval. Exasperating delay in disposal of some

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of the petitions has also been viewed by us with disquiet, as it appears to have obstructed the investigative process by unnecessarily placing the prosecution in a disadvantageous position; it is equally discomfoting to a claimant who justifiably seeks judicial protection. Petitions are converted into appeals and allowed; orders impugned are set aside. Bail petitions filed by the appellants before the High Court of Sindh are remitted and shall be deemed as pending for decisions afresh; Accused on pre-arrest bail shall be notified by the Court for their appearance and remain on ad-interim bail upon furnishing bonds in the sum of Rs.500,000/- with one surety each in the like amount to the satisfaction of Deputy Registrar (Judicial) of Sukkur Bench before the month is out. It is expected that the petitions shall be decided/disposed of with all convenient dispatch on their own merits having regard to the law declared by this Court in the case of Talat Ishaq Vs. National Accountability Bureau (PLD 2019 Supreme Court 12).

Judge

Judge

Judge

Islamabad

14th April, 2021

Not approved for reporting.

*Azmat/Kashif**