

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

MR. JUSTICE MUSHIR ALAM  
MR. JUSTICE QAZI MUHAMMAD AMIN AHMED  
MR. JUSTICE AMIN-UD-DIN KHAN

**CIVIL PETITION NO.3846, 3866 & 3976**  
**OF 2019**

(Against the order dated 16.10.2019 passed by  
High Court of Sindh at Sukkur, in C.P. Nos.D-765  
and D-764/2019)

Nazir Ahmed Shaikh  
(*C.P. No.3846/2019*)  
Ghulam Mustafa Hulio  
(*C.P. No.3866/2019*)  
Haji Ghano Khan Jatoi  
(*in C.P. No.3976/2019*)

...Petitioner(s)

**VERSUS**

National Accountability Bureau, Islamabad & others  
(*C.P. No.3846/2019 & 3866/2019*)

Federation of Pakistan through National  
Accountability Bureau, Sukkur Sindh  
(*in C.P. No.3976/2019*)

...Respondent(s)

For the Petitioner(s):

Mr. Shahab Sarki, ASC  
Mr. M.S. Khattak, AOR  
(*in C.P. No.3846/2019*)

Mr. M. Ikram Ch., ASC  
Syed Rifaqat Hussain Shah, AOR  
(*in C.P. No.3866/2019*)

Syed Iftikhar Hussain Gillani, Sr. ASC  
Mr. M. Sharif Janjua, AOR  
(*in C.P. No.3976/2019*)

For the NAB:

Syed Nayyar Abbas Rizvi, Addl. PG NAB.

Date of Hearing:

17.12.2019

**ORDER**

**QAZI MUHAMMAD AMIN AHMED, J.** Declined concessions by the High Court of Sindh vide impugned order dated 16.10.2019, Nazir Ahmad Sheikh, Ex-Taluka Nazim Larkana, through Criminal Petition No.3846 of 2019 alongside Ghulam Mustafa Hulio, Accounts Officer, through Criminal Petition No.3866 of 2019, apprehending arrest, seek bail in anticipation thereto whereas Haji Ghano Khan Jatoi, behind bars, through Criminal Petition No.3976 of 2019, has prayed for admission to post arrest bail; they are accused, arrayed alongside others in NAB Reference No.4 of 2019. With a common backdrop, the petitions are being decided through this single order.

2. Accusation against the petitioners is structured upon a controversy that primarily revolves around a piece of land with a superstructure, located in the heart of Larkana City; identified vide City Survey No.1507/5 A.B.C.D., measuring 1477.7 Sq. Yards. It is admitted at all hands that the land was granted, on lease by the Municipal Committee Larkana, way back in the year 1935 to one Thakur Das who established a cinema thereon under the name and style of Royal Cinema. In the wake of partition, Thakur Das migrated to India in the year 1955, consequent whereupon the property was treated as Evacuee Property, subsequently allotted to one K.S. Naji, under Settlement Scheme. The Municipal Committee asserted claim over the property, decided in its favour on 7.4.1981 in C.P. No.13/1970, however, the superstructure was ordered to remain with the Evacuee Department, leased it out to K.S. Naji who sold out his lease rights to Haji Ghano Khan Jatoi. Larkana Municipal Committee passed a resolution for extension of lease in the year 1993, a motion subsequently withdrawn, whereupon Haji Ghano Khan petitioner moved the High Court of Sindh; vide judgment dated 11.5.1999, the Municipal Committee was directed to consider the matter afresh; it is in continuation thereof that a meeting was convened on 10.12.2001 to carry out resolution for grant of lease for a period of 99 years on a rent of Rs.1020 per sq. yards; resolution had been forwarded to the Secretary Local

Government, Rural Development, Public Health Engineering & Kachi Abadis Department, Government of Sindh for approval; the issue is pending till date. It is in this background that the petitioners were taken to the task for attempting to dole out in perpetuity valuable property of the local council at a ridiculously low rate. It is alleged that the accused massively benefited from the foul play, however, it is a common ground too that property in question still vests in the local council.

3. It is argued on behalf of Nazir Ahmed Sheikh and Ghulam Mustafa Hulio that the superstructure was under Haji Ghano Khan Jatoi's occupation prior to their holding the helm and it was in pursuance to a direction issued by no other than the High Court of Sindh that the house carried a resolution in exercise of authority vested in it under the law, subsequently transmitted for approval to the competent authority and as such they cannot be saddled with any criminality of the transaction in the absence of positive proof to the contrary, therefore, their remission into custody would not only be abuse of process of law but would irreparably tarnish their reputation as well. Haji Ghano Khan Jatoi has also pleaded a valid transaction. The learned Law Officer has faithfully defended the reference by arguing that notwithstanding elected/official positions and an earlier lease, the petitioners effectively attempted to deprive the local body of a most valuable piece of land by dishonestly misinterpreting a judicial verdict and as such are not entitled to be released on bail.

4. Heard. Record perused.

5. Reference contains different allegations against accused, eight in number, however, the present petitioners are being blamed for designs on a solitary piece of land, lease whereof was recommended by a resolution carried by the house, albeit with some dissensions, in compliance with a direction issued by the High Court. Plan though possibly woven with sinister motives, as suggested by the learned Law Officer, nonetheless, can neither be viewed as a one man show nor was admittedly viewed as misconduct by the competent authority inasmuch as the remainder signatories have not been taken on board; it has yet to

see the light of the day; the land continues to vest in the council. Dispatching petitioners into prison, on a subjective belief of their having manipulated the impugned transaction, would be rather harsh in circumstances, particularly when the prosecution has the opportunity to possibly transform allegations into proof during the trial, already in progress. Detaining Haji Ghano Khan Jatoy would be equally inexpedient. Consequently petitions are converted into appeals; allowed; ad interim bails already granted to Nazir Ahmad Sheikh and Ghulam Mustafa Hulo are confirmed on their furnishing bonds in the sum of Rs.One Million with one surety each in the like amount to the satisfaction of the learned trial Court. Haji Ghano Khan Jatoy petitioner shall be released on his furnishing bond in the above terms.

While addressing the concern shown by the learned Law Officer at the bar, we feel no hesitation to direct the Secretary Local Government, Rural Development, Public Health Engineering & Kachi Abadis Department, Government of Sindh to take cognizance of the issue. Notwithstanding the resolution passed by the council or swayed by the order of the High Court of Sindh that merely remitted the matter for consideration afresh, he shall faithfully and vigilantly secure the proprietary rights/interests of the local council with regard to the land in question while keeping into account the actual value of the land and fair rent thereof. Copy of this order be also transmitted to the Commissioner Larkana as well. Both the functionaries shall submit a compliance report with all convenient dispatch preferably within two months.

JUDGE

JUDGE

JUDGE

ISLAMABAD  
17<sup>th</sup> December, 2019  
Azmat<sup>☆</sup>

*"Not approved for reporting"*



