

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

**PRESENT:**

Mr. Justice Umar Ata Bandial, CJ  
Mr. Justice Syed Mansoor Ali Shah  
Mrs. Justice Ayesha A. Malik

**CIVIL PETITIONS NO.101 TO 110 OF 2020**

[Against the judgment dated 30.10.2019, passed by the High Court of Balochistan, Quetta, in C.Ps.1000, 1002 to 1005, 1007 to 1009, 1019 and 1020 of 2019]

Chairman, National Accountability Bureau, Islamabad ... Petitioner (s)  
Versus

CP.101 of 2020 Yar Muhammad Solangi and others

CP.102 of 2020 Fareed ul Haq

CP.103 of 2020 Shaman Ali

CP.104 of 2020 Abdul Kareem

CP.105 of 2020 Muhammad Arif Abro

CP.106 of 2020 Abdul Hameed

CP.107 of 2020 Shafi Mohammad Mengal

CP.108 of 2020 Abdul Kareem

CP.109 of 2020 Qurban Ali

CP.110 of 2020 Abdul Majeed  
... Respondent(s)

For the Petitioner(s) : Mr. Mumtaz Yousaf,  
(in all cases) Deputy Prosecutor General, NAB

Respondent(s) : N.R.

Date of Hearing : 29.03.2022

**JUDGMENT**

**AYESHA A. MALIK, J-**. The instant Civil Petitions have arisen from a consolidated judgment dated 30.10.2019 of the High Court of Balochistan, Quetta (**the High Court**) wherein

ad-interim pre-arrest bail granted to the Respondents was confirmed against the sureties already submitted with the Additional Registrar of the High Court.

2. At the very outset, we are informed that the Respondents in Civil Petitions No.107 and 109 of 2020 have died, consequently, these petitions have become infructuous, hence, these are dismissed as infructuous.

3. So far as the remaining Petitions (Civil Petitions No.101 to 106, 108 and 110 of 2020), the basic facts are that Reference No.6 of 2019 was filed by the National Accountability Bureau (**NAB**) against 19 individuals including the Respondents, who are all contractors, except for the Respondent, Abdul Hameed in Civil Petition No.106 of 2020, who is the Assistant Executive Engineer (BPS-17), Municipal Committee, Dera Murad Jamali. The Reference was filed on a complaint received by NAB from the Deputy Commissioner, Naseerabad on allegations of corruption and corrupt practices with reference to embezzlement of funds for Development Schemes for the year 2014-15 in the Municipal Committee, Dera Murad Jamali. As per the Reference, the works done and executed by the contractors under the supervision of the Assistant Executive Engineer were not as per specifications and payments made in the measurement books. Hence, the allegation is that excess payment has been made to the contractors with the help of Assistant Executive Engineer.

4. The Respondents filed constitution petitions before the High Court praying therein that ad-interim bail may be granted in Reference No.6 of 2019 as they have committed no

offence and that they are willing to appear before the relevant authority and cooperate with them in order to establish their innocence.

5. The impugned judgment dated 30.10.2019 granted ad-interim pre-arrest bail essentially on the ground that the Respondents fully cooperated during the process of investigation; that NAB has taken into possession all of the relevant record; and that the Respondents are no more required for any further investigation. More importantly, NAB never issued any warrants for the arrest of the Respondents throughout the investigation as the physical arrest of the Respondents was not required by the investigation agency. The impugned judgment finds that the role of each of the accused has yet to be proven by the prosecution during the trial, as well as the loss caused by each of the Respondents and the benefit derived by them, which ultimately will prove the loss caused to the government exchequer.

6. The learned Deputy Prosecutor General, NAB (**DPG**) argued that the impugned judgment is against the settled principles enumerated in the cases of this Court reported as Malik Din v. Chairman National Accountability Bureau and another (**2019 SCMR 372**) and Tallat Ishaq v. National Accountability Bureau through Chairman and others (**PLD 2019 SC 112**), wherein it has been decided that bail is a concession and can only be granted in appropriate cases. The learned DPG states that in the instant cases, the investigation revealed that out of 114 Development Schemes in 2014-15, excess payment was made in 78 Schemes which were

supervised by Abdul Hameed (Respondent in Civil Petition No.106 of 2020), being the Assistant Executive Engineer and the Project Director, who issued the completion certificates to the contractors whereafter, payments were made to them. During the investigation, the record revealed that the work was not done as per the specifications given in the measurement books and that the work was sub-standard. Despite these facts, total payment was given to the contractors with no objections.

7. We have heard the learned DPG, NAB and perused the record and the impugned judgment. The most relevant fact, in these cases, is that NAB did not seek the arrest of any of the Respondents during the course of initial inquiry or during the investigation. The learned DPG, NAB does not deny this fact and is unable to explain why NAB seeks their arrest now, at this stage, given that the Reference has been filed and the matter is now before the trial court. Furthermore, the Respondents have fully cooperated during the course of the investigation, as they have been attending all proceedings and according to the prosecution the Respondents are no longer required for investigation. Further, NAB has taken into possession all the relevant record and no recovery is to be effected from the Respondents. We also find that reliance on the case of Malik Din (*supra*) is misconceived as the case is totally distinguishable on the facts as the petitioner in that case challenged his conviction, hence, it has no relevance to the case at hand. The second case cited as Tallat Ishaq's case (*supra*) is also distinguishable on the facts, and hence, is not applicable.

8. In the cases before us, we find that there is no perversity in the impugned judgment, which has resulted in any miscarriage of justice. The Respondents have duly cooperated and have not misused the concession of bail. We also note on going through the contents of the Reference filed that the impugned judgment has correctly held that the role of each of the accused has yet to be proven with reference to the work allegedly done by each contractor contrary to the measurement books. Similarly, in each case, it has yet to be determined the exact loss caused to the government exchequer and the benefit derived by the Respondents. Hence, the Respondents have to face trial for a determination by a court of competent jurisdiction on their involvement with the Assistant Executive Engineer and the monetary gains made, if any.

9. In view of the above, we find no merit in these Petitions, which are dismissed and Leave to Appeal is refused.

**CHIEF JUSTICE**

**JUDGE**

Bench-I  
Islamabad  
29.03.2022  
'APPROVED FOR REPORTING'  
Mahtab H. Sheikh/\*

**JUDGE**

**Tagline:**

**NAB and cases of pre-arrest bail. Requirements to be considered by the Court.**