

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE MUSHIR ALAM
MR. JUSTICE DOST MUHAMMAD KHAN

Civil Petition No.3874 of 2016

(On appeal from the judgment dated 20.10.2016 passed by the Lahore High Court, Lahore in W.P No.15848 of 2016)

Rai Muhammad Khan

... **Petitioner(s)**

VERSUS

NAB thr. its Chairman and others

... **Respondent(s)**

For the petitioner(s): Qazi Misbah-ul-Hassan, ASC
Syed Rifaqat Hussain Shah, AOR

For the NAB: Mr. Nasir Mehmood Mughal, Spl.P.NAB

Date of hearing: 22.3.2017

JUDGMENT

Dost Muhammad Khan, J.— Petitioner is seeking leave to appeal against the decision of the Lahore High Court, Lahore dated 20.10.2016, dismissing his bail petition.

Arguments of Qazi Misbah UI Hassan, learned ASC for the petitioner and also of Mr. Nasir Mehmood Mughal, Special Prosecutor, NAB heard in considerable detail and record perused.

2. Briefly, the relevant facts are that, petitioner was Chairman of the Citizens Community Board (CCB), Sheikhpura, when two projects i.e. construction of PCC roads were sanctioned by the Government and allocated Rs.12 millions, while contribution of CCB was Rs.3 millions.

3. It is alleged in the Reference No.30 of 2016, that the petitioner being Chairman, by misusing his status of office, misappropriated an amount of Rs.11.04 million out of 12 millions, allocated by the Government, through fake and bogus completion bills, while in fact no work was done on the site. The amount with the endorsement of District Accounts Office, Sheikhupura, was first transferred to CCB Account and the petitioner then withdrew and deposited in his own account, misappropriating it.

4. The DCO of the District, complained to the Chairman, NAB, on which, the case was referred to the Local NAB and after inquiry and investigation, Reference was filed in the Accountability Court.

5. Learned counsel for the petitioner argued with vehemence that co-accused of the petitioner, namely, Abdul Ghafoor, similarly charged, has been granted bail therefore, the petitioner is entitled to the same concession on the principle of consistence.

6. The SOP, issued by the Chairman NAB, *that cases involving corruption or corrupt practices where an amount is less than Rs.100 millions, shall not be taken cognizance by the NAB Authorities*, has been violated in this case because the Chairman was duly authorized to issue such instructions under the provisions of NAB Laws, the learned ASC added.

He also disclosed at the bar that on this issue, the jurisdiction of the Accountability Court has been challenged through an application and why the trial could not commence because it has yet to be decided. Whether such instructions have the status of statutory law, binding even on the Chairman because in this case he approved the inquiry and investigation into the case, is a question to be decided by the Trial Court and we would not comment upon this issue anymore, lest it prejudice the case of the petitioner.

7. Under the principle of law and justice, each bail petition is to be decided on its own merits and the law applicable thereto, however, this Court cannot remain oblivious of the undeniable fact that the tendency of corruption in every field, has become a threatening danger to the State economy, striking on its roots. The public money, allocated for social sector and economic well being of the poor people, is consistently embezzled/misappropriated at a large scale and why the majority of the population is deprived of essential daily utilities, like pure drinking water, health care and education facilities, etc. It has become the foremost obligation of each and every institution, including the Judicator, to arrest this monster at this stage, before it goes out of proportion, posing threat to the very survival of the State and State economy, therefore, the Courts shall apply the Ani-Corruption laws somewhat rigidly, once on fact the case is made out, at bail stage, against the accused person. Distinction, however, is to be drawn between the ordinary criminal cases and is of corruption on the above analysis and grounds, while dealing with bail matter to an accused person, charged for such like crimes and also at the time of conviction, once the case is proved against him then, Courts are not supposed to show any mercy by taking a lenient view in the matter of sentence.

8. So far as the facts of the case are concerned, we have carefully gone through the impugned judgment of the High Court, which has elaborately dealt with each and every aspect of the case while refusing to grant bail to the petitioner and we do not see any reason much less plausible to interfere in the impugned order and that too in our extraordinary constitutional jurisdiction. Therefore, this petition is **dismissed** and leave to appeal is **declined**.

9. As the accused in every case, has a right of speedy trial, therefore, if the Trial Court decides to assume jurisdiction after dealing with the objections of the petitioner then, it has to proceed with the trial, speedily and to decide the same positively within six months under intimation to Additional Registrar

(Judicial) of this Court. Both, the defence and the prosecution, are directed to cooperate with the Trial Court and no unnecessary adjournment shall be allowed to anyone of the parties.

These are the detailed reasons for our short order of even date, which is reproduced herein below:-

"For the reasons to be followed, leave is declined and petition is dismissed."

Judge

Judge

Islamabad, the
22nd March, 2017
Nisar/ *
Approved For Reporting