

**LAHORE HIGH COURT**

**Writ Petition No. 74858 of 2019, heard on 21-01-2020**

**PRESENT:**

**MUHAMMAD TARIQ ABBASI, JUSTICE  
CH. MUSHTAQ AHMAD, JUSTICE**

**PETITIONER(S): FAWAD HASSAN FAWAD  
VS**

**RESPONDENT(S): FEDERATION OF PAKISTAN AND OTHERS**

**Ashtar Ausaf Ali, Azam Nazir Tarrar, Barrister Asad Rahim Khan, Muhammad Amjad Pervaiz and Salman Sarwar Rao for Petitioner.  
Syed Faisal Raza Bukhari, Special Prosecutor NAB with Usman Iftikhar, Assistant Director, NAB, Lahore/I.O. for the State/NAB.**

---

Constitution of Pakistan---

----Art. 199--- National Accountability Ordinance (XVIII of 1999), S. 9---Corruption and corrupt practices---Bail, grant of---Scope---Accused sought post arrest bail in a case lodged by National Accountability Bureau (NAB)---Held; NAB had failed to substantiate the grounds of arrest---National Accountability Bureau had alleged that the accused had acquired huge assets disproportionate to his known sources of income but no such assets in the name of accused were highlighted in the reference---National Accountability Bureau had alleged that the accused had no significant sources of income but his dependents owned a property worth Rs. 500 million but in the reference value of the property was stated to be Rs. 78.5 million and nothing was brought on record to prove that it was purchased or acquired through any amount, paid by accused---NAB had alleged that 14 Bank accounts were being maintained by accused and his family members but reference was silent to that extent---Family members of the accused were arrayed as accused in the reference, without any arrest---Accused was arrested without any cogent and convincing evidence/material---Accused was in confinement for about 01 year and 07 months without any progress in the case---Even the charge was not framed---Accused could not be kept behind the bars for indefinite period---Post-arrest bail was allowed, in circumstances.

THIS ORDER PASSED BY: MUHAMMAD TARIQ ABBASI, JUSTICE:---.---

By way of instant writ petition, the petitioner, namely, Fawad Hassan Fawad seeks his release on bail, in Accountability Reference No.21 of 2019.

2. The petitioner, during pendency of an inquiry, was arrested by the NAB on 05.07.2018, on the basis of following grounds and allegations:-

"Following facts form basis for immediate arrest of the accused:-

a. That accused Fawad Hassan Fawad being public office holder, acquired huge assets disproportionate to his known sources of income.

b. That the accused through his family members has executed a deed for purchase of commercial plot amounting to Rs.500 Million approx in Rawalpindi which, prima facie, is disproportionate to his known sources of income.

c. That dependent of the accused (his wife), sister-in-law and the brother of the accused have no significant sources of income yet they are the owners of Messrs Fehmida Yaqoob Construction (FYC) Company (Pvt.) Ltd. which owns a 15-floor plaza "The Mall" Rawalpindi worth Rs.5 Billion (approx), which is prima facie, disproportionate to known sources of income of the accused.

d. The accused maintains more than 14x bank accounts in his own name and in the name of his dependents/benamidars, having credit inflow of over Rs. 50 Million, which does not commensurate with his disclosed source of income.

e. That accused was given fair chance to explain sources of funds used for acquisition of assets however he could not offer any plausible explanation.

f. That arrest of the accused is essential to procure further evidence, detection of hidden assets, relevant incriminating material and recovery of crime proceeds."

3. Consequently, the petitioner for his release on bail had preferred a Writ Petition No.229141 of 2018 and decided on 14.02.2019, as dismissed.

4. Thereafter the petitioner for the same relief had approached the august Supreme Court of Pakistan, through Civil Petition No.648-L of 2019. By that time a reference was filed, against the petitioner and he had also alleged delay in trial, hence through order dated 03.12.2010, the petition was withdrawn with the following reasons and grounds:-

"Upon reconsideration the learned counsel for the petitioner wishes to withdraw this petition so as to advise the petitioner to approach the High Court again on two stated fresh grounds for bail, i.e. filing of a Reference against the petitioner and delay in conclusion of his trial. This petition is, therefore, disposed of as having been withdrawn."

Consequently, the petition in hand has been preferred on the grounds alleged in the petition and reiterated during the arguments.

The record shows that during the proceedings, subsequent to the inquiry, the NAB had failed to substantiate the above mentioned grounds of arrest, due to the following reasons:-

i) In Para (a), of the grounds of arrest, it was alleged that the petitioner had acquired huge assets, disproportionate to his known sources of income but no such asset, in the name of the petitioner could be dug out and highlighted in the reference.

ii) In ground (b), value of the property was described as 500 Million but in the reference it was stated as 78.5 million and nothing had been brought on the record that it was purchased or acquired, through any amount, paid by the petitioner.

iii) According to ground (c), Mst. Rubab Hassan (wife), Waqar Hassan (brother) and Mst. Anjum Hassan (sister-in law/ BHABHI) of the petitioner, being owner of Messrs Fehmida Yaqoob Construction (FYC) Company (Pvt.) Ltd, owned a plaza, known as "The Mall" Rawalpindi, worth Rs.5 Billion. Firstly no concern or nexus of the petitioner with the above mentioned company and the plaza has been established on the record and secondly the

NAB while assessing whole of the assets of the petitioner and his family members as 1089 Million had rebutted the above said price, of the property.

iv) In ground (d), 14 bank accounts, maintained by the petitioner and his family members were alleged but the reference is silent to that extent.

5. Admittedly, in the reference no evidence had been annexed, suggesting any property, in the name of the petitioner. Similarly, there was no cogent or convincing evidence, on the record that the petitioner had purchased any property from any vendor and got it transferred, in name of his above named relatives as benamidar.

6. Undisputedly, the above named relatives of the petitioner are directors/share holders, in the above said company (FYC) as well as another known as "Messrs Sprint Services (Pvt.) Ltd.", who are also owners of certain assets but they had categorically alleged that they had acquired the assets by their own means and not through the petitioner, in any manner whatsoever. Furthermore, the NAB has badly failed to bring on the record, any evidence to the effect that actually for purchase of the above said properties, the payments were made to the vendors by the petitioner.

7. The above named relatives of the petitioner, having the above mentioned properties have also been arrayed as accused, in the reference, without any arrest and as such they are appearing in proceedings of the reference, while at large. But the petitioner without cogent and convincing evidence/material, regarding any link or nexus, with the above mentioned business/properties, owned by the above named co-accused has been arrested even at inquiry stage.

8. On one hand, the above mentioned facts and circumstances are before the Court, whereas on the other hand, confinement of the petitioner for the last about 01 year and 07 months, without any progress in the case has been noticed. As till date even charge has not been framed, against the petitioner and his co-accused. Consequently, the petitioner could not be kept, behind the bars for an indefinite period.

9. For what has been discussed above, the writ petition in hand is allowed and it is directed that the petitioner be released on bail subject to his furnishing bail bonds in the sum of Rs.1,00,00,000/- (Rupees ten million only), with two sureties each, in the like amount, to the satisfaction of the learned Trial/Duty Accountability Court, Lahore.