

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.**

Before:-

**Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.
Mr. Justice Javed Iqbal, Judge.**

**Cr. Appeal No. 19/2017
in
Cr. PLA No. 38/2017.**

National Accountability Bureau

Petitioner.

Versus

Sher Baz Ahmed son of Hameedullah R/O Basin Pain Henzail
Tehsil & District Gilgit

Respondent.

PRESENT:-

1. Mr. Hasnain Khursheed, Additional Prosecutor General National Accountability Bureau Rawalpindi alongwith Mr. Amin Khan, Special Prosecutor NAB Gilgit and Mr. Ali Nazar Khan Advocate-on-Record for the petitioner.
2. Malik Shafqat Wali senior Advocate on behalf of the respondent.

DATE OF HEARING: - 20.09.2017.

ORDER.

Dr. Rana Muhammad Shamim, CJ..... This Criminal petition for cancellation of bail has arisen out of the impugned order dated 12.06.2017 passed by the learned Chief Court whereby the Writ Petition No. 74/2017 filed by the respondent was accepted by granting him bail, hence, this petition for leave to appeal.

2. Briefly, the facts of the case are that the respondent was arrested by the petitioner on 03.04.2017 in connection with an inquiry against the officers/officials of Excise & Taxation Department Gilgit-Baltistan regarding the alleged illegal award of contracts of number plates, purchase of arms & ammunitions and

irregular appointments etc. The respondent was convicted for 03 years imprisonment under Section 31-A of NAB Ordinance, 1999 by the learned National Accountability Court vide order dated 27.10.2016. Whereafter, the learned NAB Court issued perpetual non-bailable warrants of arrest against the respondent and he was accordingly arrested from Islamabad on 03.04.2017. His transit remand was also taken from NAB Court Islamabad on 04.04.2017. Consequently, the respondent was produced before NAB Court Gilgit on 08.04.2017. The physical remands were granted periodically. The respondent being aggrieved filed Writ Petition before the learned Chief Court which was accepted vide impugned order.

3. Mr. Hasnain Khursheed, learned Additional Prosecutor NAB Rawalpindi submits that the respondent willfully, knowingly and with criminal intent received undue and illegal favour as front man of the main contractor which caused loss to the Government exchequer. Similarly, the respondent in connivance with other accused received illegal benefits by violating the PEPRA rules, producing fake tender process/forged documents etc. Per learned Additional Prosecutor, the accused/respondent committed the offence of corruption & corrupt practice which is cognizable under Section 9-A of NAB Ordinance, 1999. He submits that the respondent/accused was summoned time and again but he willfully and knowingly remained fugitive from law and did not extend his cooperation during investigation. He submits that the learned Chief

Court fell in error while passing the impugned order which is not sustainable and liable to be set aside.

4. On the other hand, the learned counsel for the respondent supports the impugned order passed by the learned Chief Court. He contends that the respondent is neither a Government official nor he is involved in the case in hand rather he has a front man of the contractor. The said contractor is enjoying his liberty in lieu of the plea bargain affected with the NAB authorities. Per learned counsel, the respondent was convicted for 03 years under Section 31-A of the NAB Ordinance, 1999, therefore, he should have been dealt as convict by allowing him judicial remand instead of physical remand by the learned Trial Court. He contends that the learned Chief Court has rightly allowed his bail application vide impugned order which is required to be maintained in circumstances.

5. We have heard the learned counsels for the respective parties at length, perused the material on record and gone through the impugned order passed by the learned Chief Court. We are in agreement with the contentions of the learned counsel for the respondent that the respondent has been convicted for 03 years under Section 31-A of the NAB Ordinance, 1999 and he should have been dealt accordingly. In our considered view, the impugned order dated 12.06.2017 passed by the learned Chief Court is well reasoned and well founded and no indulgence is warranted into it. In case any material evidence against him, comes on record

regarding his involvement in commission of crime, the NAB authorities may approach the learned Chief Court for cancellation of his bail in circumstances.

6. In view of the above discussions, we convert this petition into an appeal and the same is dismissed. Consequently, the impugned order dated 12.06.2017 passed by the learned Chief Court is affirmed.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.