

S B L R 2021 Balochistan 5

[High Court of Baluchistan (Quetta)]

*Present: Mr. Justice Abdullah Baloch &
Mr. Justice Muhammad Hashim Khan Kalar*

Ghulam Murtaza Randhawa---Petitioner

versus

State through Director General NAB & another---Respondents

Criminal Ehtesab Appeal No. 21 of 2020 decided on 30th
December, 2020

**A) National Accountability Ordinance, 1999---Section 32---
Ehtesab Appeal---Criminal Misc. Application u/s 426 of
Criminal Procedure Code (V of 1898)---For Grant Suspension
of impugned Judgment---Appellants (applicants) are facing the
rigors of trial since the year 2007---Bail granted---Appellant
(accused) was convicted and sentenced by the trial Court, which
judgment was set-aside by this Court in appeal by remanding the
case to the trial Court for re-trial, hence after remand the learned
trial Court acquitted the appellant, but again on the acquittal appeal
of NAB was allowed and the matter was remanded to the trial
Court, hence the trial Court convicted and sentenced the
appellants. Admittedly, conflicting judgments are involved in the
matter, thus the case requires deep scrutiny of record, which is
consisting upon volumes, hence such exercise cannot be done due
to forthcoming winter vacations---Even otherwise, the appellants
(applicants) are facing the rigors of trial since the year 2007 and
during trial they remained on bail and no complaint for abuse of bail
concession was brought on record by the prosecution, they were
regularly appearing before the learned trial Court and even before this
Court, hence, operation suspended of the impugned judgment passed
by the learned trial Court and accordingly the appellants are ordered
to be released on bail---Bail granted. [P-7]A**

M/s Amanullah Kanrani & Talat Waheed Khan, Advocates for the Appellant (Applicant)

Mr. Amin-ud-Din Bazai, Advocate for the State.

Date of hearing: 23rd December, 2020

ORDER

ABDULLAH BALOCH, J.- This order disposes of CrI. Misc. Applications Nos.336 & 340 of 2020 filed by the appellants/applicants (convicts) Ghulam Murtaza and Ghulam Mustafa both sons of Haji Ghulam Rasool Randhawa, under Section 426 Cr.P.C in CrI. Ehtesab Appeal Nos. 21 and 22 of 2020 for suspension of the impugned judgment dated 26.11.2020 passed by the Judge Accountability Court-II Baluchistan, Quetta (hereinafter "**the trial Court**") in NAB Reference No.07/2007 and for their release on bail till pending appeal. The concluding paras of the impugned judgment passed by the trial Court read as under:

- i. *The accused person Ghulam Mustafa Randhawa S/o Ghulam Rasool Randhawa is convicted and sentenced to the period of 6 years and to pay fine of Rs.5,00,00,000 (five Crore) and in default thereof and he shall further undergo for six months S.I.*
- ii. *The accused person Ghulam Murtaza Randhawa S/o Ghulam Rasool Randhawa is convicted and sentenced to the period of 4 years and to pay fine of Rs.5,00,00,000/- (Five Crore) and in default thereof and he shall further undergo for six months S.I.*
- iii. *The property bearing No.134, known as Al Muzamil Square situated at Shahbaz town and the property Godown, Plots No.A-22, 23, 24, B-33 and 34 situated at Sirki Road, are forfeited to the State.*

2. The learned counsel for the appellants (applicants) contended that the applicants have been awarded conviction and

sentence on the basis of presumptions without there being any incriminatory evidence; that the record of case is in volumes and due to winter vacations there is no possibility for early disposal of the appeal, thus prayed for suspension of impugned judgment.

3. While opposing the application, learned D.P.G. NAB stated that the NAB Baluchistan has proved the charge against the appellants (accused) through oral and documentary evidence and even during trial they remained on bail and as such are not entitled for the relief claimed for in the instant application.

4. Heard the learned counsel for the appellants (applicants) and learned D.P.G. NAB. The evidence will be appraised at the time of deciding the appeal on merits, as the deep scrutiny of the record at this stage, would prejudice the merits of the appeals. Anyhow, the perusal of record transpires that the appellant (accused) Ghulam Mustafa was convicted and sentenced by the trial Court, which judgment was set-aside by this Court in appeal by remanding the case to the trial Court for re-trial, hence after remand the learned trial Court acquitted the appellant, but again on the acquittal appeal of NAB was allowed and the matter was remanded to the trial Court, hence the trial Court convicted and sentenced the appellants. Admittedly, conflicting judgments are involved in the matter, thus the case requires deep scrutiny of record, which is consisting upon volumes, hence such exercise cannot be done due to forthcoming winter vacations.

5. Even otherwise, the appellants (applicants) are facing the rigors of trial since the year 2007 and during trial they remained on bail and no complaint for abuse of bail concession was brought on record by the prosecution, they were regularly appearing before the learned trial Court and even before this Court, hence, we are inclined to suspend the operation of impugned judgment dated 26th November 2020 passed by the learned trial Court and accordingly the appellants are ordered to be released on bail subject to furnishing bail bonds in the sum of Rs.500,000/- (Rupees Five Hundred Thousand) each, with P.R. bonds of the like amount to the satisfaction of the Additional Registrar of this Court.

Bail granted