JUDGEMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

JUDICIAL DEPARTMENT

Writ Petition No. 3135 of 2024

Inam-ud-Din Marwat

VERSUS

National Accountability Bureau through its Chairman

PETITIONER BY:	Mr. Jan Muhammad, Advocate
RESPONDENT BY:	Hafiz Ejaz Mehmboob, SPP, NAB
DATE OF HEARING:	25.09.2026

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AYYAZ SHAUKAT, J:- Through the instant writ petition, the petitioner seeks a direction to the National Accountability Bureau (the **"NAB"**) to inform the concerned departments, in particular the Excise and Taxation Department and the Revenue Department, Khyber Pakhtunkhwa, that the caution placed on his properties under Section 23 of the National Accountability Ordinance, 1999 (the **"Ordinance"**) stands lifted, and to place on record its correspondence with those departments.

2. The facts, briefly stated, are that the petitioner is facing trial in Reference No. 03 of 2018 before the learned Accountability Court-I, Islamabad, on the allegation that his company, M/s Inam & Co. (Pvt.) Ltd., misappropriated 13,666.4 metric tons of government-owned urea valued at Rs. 573.988 million. During the investigation, NAB Rawalpindi, vide letters dated 28.08.2018, placed a caution under Section 23 of the Ordinance on properties standing in the names of the petitioner, his father (who is a co-accused), and other members of his family. The petitioner's grievance is that the concerned departments continue to refuse to transfer his land, and

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to receive taxes on, or to transfer, his vehicle, notwithstanding that Section 23 no longer exists.

3. Learned counsel for the petitioner contends that Section 23 of the Ordinance was omitted by the National Accountability (Amendment) Act, 2022 (the **"Amendment Act"**) with retrospective effect, and that, therefore, every caution placed thereunder stands removed by operation of law. He submits that the Excise and Taxation Office, Peshawar, and the revenue authorities at D.I. Khan continue to refuse to act because NAB has not communicated the position to them clearly. He further submits that NAB did not even respond to the petitioner's application dated 26.04.2024, and that such failure to act is violative of Articles 4 and 23 of the Constitution of the Islamic Republic of Pakistan, 1973 (the **"Constitution"**).

4. Conversely, the learned Special Prosecutor for NAB, referring to the report placed on record and the letters annexed thereto, submits that NAB has informed the Capital Development Authority, the Commissioner, D.I. Khan and the Administrator, Bahria Town, Karachi of the omission of Section 23 of the Ordinance and requested consequential action in respect of the petitioner's properties. As regards the vehicle, a Toyota Premio bearing registration No. BC-6896, Peshawar, he states that it is not under caution but under a freezing order. The Director General, NAB (Rawalpindi), froze it under Section 12 of the Ordinance vide order dated 15.07.2024, which was confirmed by the learned Accountability Court-I, Islamabad on 08.08.2024. He submits that any objection to the freezing lies exclusively before the Accountability Court under Section 13 of the Ordinance, and prays for dismissal of the petition.

5. I have heard the learned counsel for the parties and have perused the available record with their assistance.

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6. A perusal of the record reveals that the controversy has narrowed considerably during the pendency of this petition. Section 23 of the Ordinance barred an accused, his relatives and associates from transferring, or creating a charge on, any property while the inquiry, investigation or proceedings were pending, and declared any such transfer void. The caution letters dated 28.08.2018 were not orders passed by any authority; they merely informed the departments of a bar imposed by the statute itself, and whatever force they had was derived entirely from Section 23. That section was omitted, along with its proviso, by the Amendment Act (Act XI of 2022), Section 1(2) whereof gives the amendment retrospective effect from the date of commencement of the Ordinance in 1999. The effect of this omission has already been authoritatively determined by a learned Division Bench of this Court in ***Muhammad Bilal Sheikh v. Accountability Court No. I, Islamabad*** **(2023 PCr.LJ 337)**, wherein it was held as follows:

> *"7. In view of referred position, section 23 stands omitted since 1999; the consequences naturally follow and all actions taken thereupon would extinguish. Needless to observe that the omission albeit operates from 1999 shall not prejudice past and closed transactions."*

7. NAB does not dispute this position. Its report, placed on record, encloses letters addressed to the Commissioner, D.I. Khan, and the Capital Development Authority, informing them of the omission of Section 23 of the Ordinance and requesting consequential action in respect of the petitioner's properties. The petitioner's grievance, insofar as it concerns communication of that position to the aforesaid authorities and production of the relevant correspondence, has thus been redressed. No further direction to NAB is, therefore, required to that extent.

8. Adverting to the vehicle bearing No. BC-6896, the position is different, inasmuch as it is not under caution. The Director General, NAB

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(Rawalpindi), exercising the power of the Chairman delegated to him under Section 34-A of the Ordinance, froze it vide order dated 15.07.2024, recording that there were reasonable grounds to believe that the vehicle had been acquired out of the proceeds of crime and that the petitioner might alienate it. The learned Accountability Court-I, Islamabad confirmed that order on 08.08.2024 by prohibiting the alienation and delivery of possession of the vehicle under Section 12(b)(iii), and directed that notice be issued to the accused. The petitioner has not challenged this order before any forum, nor has he even referred to it in this petition. His grievance regarding the vehicle is, in substance, a grievance against a freezing order confirmed by a court. The question, therefore, is which forum is competent to hear such a grievance.

9. A freezing order is an interim measure. Its purpose is to preserve the property, so that, if the accused is ultimately convicted, the order of the Court may be given effect. It is not a punishment, nor does it determine title to the property. Section 12(a) of the Ordinance confers the power in the following terms:

> *"(a) The Chairman NAB or the court trying an accused for any offence as specified under this Ordinance, may, at any time, if there appear reasonable grounds for believing that the accused has committed such an offence, order the freezing of his property or part thereof, whether in his possession or in the possession of any relative, associate, or person on his behalf."*

10. This power is subject to certain checks. Sub-section (b) prescribes the modes in which movable property may be frozen, ranging from seizure to a simple prohibition on its delivery. The first proviso to sub-section (c) provides that an order of the Chairman NAB shall remain in force for not more than fifteen days unless confirmed by the Court. The Hon'ble Supreme

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Court explained the effect of this proviso in ***Mrs. Shagufta Shaheen v. The State*** **(2019 SCMR 1106)** in the following words:

> *"5. Once Chairman, NAB has passed an Order under section 12 of the Ordinance, it has a lifespan of 15 days, unless confirmed by the Court. Prosecution has to move the Court for the confirmation of the Order. If the prosecution fails to do so within 15 days of the Order, any subsequent application for confirmation is not maintainable for the reason that there is no order in the field to confirm. In case the application for confirmation has been filed within 15 days of the Order of the Chairman, NAB, it shall continue to subsist till the Court adjudicates upon the matter, otherwise the purpose of confirmation falls to the ground."*

11. The power of the Chairman may be exercised by an officer to whom it has been delegated under Section 34-A, as was held by the Peshawar High Court in ***Muhammad Israr Khan v. Chairman, National Accountability Bureau*** **(PLD 2017 Peshawar 169)**. Once confirmed, the order remains operative under sub-section (f) until the final disposal of the case. Section 13 then provides the remedy against any such order, and reads as follows:

> *"(a) Notwithstanding the provisions of any law for the time being in force, the Court shall have exclusive jurisdiction to entertain and adjudicate upon all claims or objections against the freezing of any property under Section 12 above. Such claims or objection shall be made before the Court within 14 days from the date of the order freezing such property.*
>
> *(b) The Court may for sufficient cause extend the time for filing such claims or objections for a period not exceeding additional 14 days.*
>
> *(c) The accused or any other aggrieved party, whose claim or objection against freezing of property has been dismissed by the Court, may, within ten days file an appeal against such order before the High Court."*

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12. Read together, Sections 12 and 13 provide a complete mechanism for freezing. The Chairman may freeze a property, but the Court retains control at every stage. NAB must apply to the Court for confirmation within fifteen days of the freezing order. Where the application is filed within that period, the order continues to subsist until the Court decides the application. Section 13(a) vests exclusive jurisdiction to adjudicate claims and objections against freezing in the Accountability Court, while Section 13(c) provides an appeal to this Court against an order dismissing such a claim or objection. A learned Division Bench of this Court has recently held in ***Brigadier (R) Qaiser Shahzad v. National Accountability Bureau*** **(PLD 2026 Islamabad 215)** that appeals under Section 13(c) fall within Section 32(b) of the Ordinance and are to be heard by a Bench of not less than two Judges. The legislature has entrusted this role to the Accountability Court for good reason. That Court has before it the Reference, the evidence and the accused. It is best placed to determine whether a property has any real nexus with the alleged offence, and whether the manner of freezing is reasonable.

13. In these circumstances, interference in the exercise of constitutional jurisdiction is not warranted in respect of the freezing of the vehicle. Article 199 of the Constitution can be invoked only where the law provides no other adequate remedy. The Hon'ble Supreme Court reaffirmed this rule in ***Commissioner Inland Revenue v. Jahangir Khan Tareen*** **(2022 SCMR 92)** in the following words:

> *"... where a special law provides legal remedy for the resolution of a dispute, the intention of the legislature in creating such remedy is that the disputes falling within the ambit of such forum be taken only before it for resolution. Such bypass of the proper forum is contrary to the intention of the provisions of Article 199(1) of the Constitution which confers jurisdiction on the High Court only and only when there is no adequate remedy is available under any law. Where adequate*

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forum is fully functional, the High Court must deprecate such tendency at the very initial stage and relegate the parties to seek remedy before the special forum created under the special law to which the controversy relates."

14. In the present case, the petitioner has neither referred to the freezing order confirmed by the learned Accountability Court nor established any ground warranting interference in constitutional jurisdiction in preference to the statutory remedy. His grievance concerning the freezing of the vehicle must, therefore, be pursued through the mechanism provided by Section 13 of the Ordinance, subject to the applicable requirements of limitation and maintainability.

15. In ***Ehsan Ullah Sirazi v. Director General (Karachi), National Accountability Bureau*** **(PLD 2018 Sindh 696)**, a learned Division Bench of the Sindh High Court, while considering the remedy against a freezing order, held that *"the proper means of appealing a freezing order which has been granted under section 12 NAO by the accountability court is through section 13(c) NAO".* More recently, in ***Muhammad Afzal v. National Accountability Bureau*** **(PLD 2026 Peshawar 32)**, the Peshawar High Court declined to interfere with a freezing order in constitutional jurisdiction, observing that a claim or objection under Section 13 was the remedy available to an affected party and that factual disputes could not be adjudicated upon under Article 199.

16. A like approach was adopted by a Division Bench of the High Court of Sindh in ***Iqbal Ahmed v. NAB*** **(C.P. No. D-796 of 2023, order dated 14.03.2023)**. There, after the omission of Section 23, NAB had obtained confirmation of a freezing order from the Accountability Court under Section 12, and the petitioner assailed a notice issued in compliance with that order. The petition was dismissed, it being observed that the notice had its genesis in an order of a court and not in the exercise of executive authority, and

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that the petitioner's remedy lay before the trial court which had confirmed the freezing, or in the proceedings already pending against that order.

17. The questions concerning the vehicle's nexus with the alleged offence, the scope of the freezing order, including its bearing on the payment of token tax, and the timely filing of the application for confirmation require examination of the relevant record. These matters are left open for consideration in such proceedings as may be maintainable before the competent forum. No opinion on their merits is expressed.

18. In view of the foregoing, the petition, insofar as it seeks a direction to NAB to communicate the omission of Section 23 of the Ordinance to the Commissioner, D.I. Khan, and the Capital Development Authority and to place the relevant correspondence on record, is **disposed of**, as the petitioner's grievance to that extent has been redressed. As regards the freezing of vehicle bearing registration No. BC-6896, Peshawar, interference in the exercise of constitutional jurisdiction is declined. The petitioner may avail himself of the remedy provided under Section 13 of the Ordinance before the learned Accountability Court, Islamabad, subject to the applicable requirements of limitation and maintainability. Any claim or objection so preferred shall be considered in accordance with law. Nothing observed herein shall prejudice its determination on merits or the adjudication of the pending Reference.

(AYYAZ SHAUKAT)
JUDGE

Announced in open Court on **12.10.2026.**

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Saeed.

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