JUDGMENT SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P. No. 1525/2025

Manzoor Qadir

Versus

Federation of Pakistan, etc.

Petitioner by: Barrister Iftikhar Ahmed Shah, Advocate.

Respondents by: Mr. Azmat Bashir Tarar, AAG.
Mr. Muhammad Rafay Maqsood, Sr. Special Prosecutor, NAB.

Date of Decision: 18.06.2025.

KHADIM HUSSAIN SOOMRO, J: Today, CMs No. 1814 & 1815 of 2025, are fixed for hearing. However, learned counsel for the petitioner submits that main case may kindly be taken up for hearing today. The request is allowed.

2. Through this writ petition, the petitioner prays as under:-

I. *Declare that the placing of the Petitioner's name on PCL on account of pendency of the subject reference is illegal and void;*
II. *Set aside, and during pendency of the present petition suspend, the operation of the impugned letter dated 01.02.2025;*
III. *Restrain the Respondents from placing of Petitioner's name on ECL, PCL, and/or PNIL, on account of pendency of the subject reference;*
IV. *Direct the Respondents/Ministry not to put the name of the Petitioner in any lists (PCL, ECL and PNIL) without Court's permission;*
V. *Direct the Respondents to remove the Petitioner's name from PCL and PNIL/ECL (if already placed);*

VI. Grant any other relief(s) that this Honourable Court deems appropriate in the circumstances of the case.

3. At the very outset, learned counsel for the petitioner submits that the petitioner is a professional Architect and has previously served as the Director General of the Sindh Building Control Authority (SBCA). He states that the NAB authorities have filed a Reference against the petitioner and others in connection with the alleged illegal grant of land to Bahria Town Karachi. Consequently, the petitioner's name has been placed on the Provisional National Identification List (PNIL), which, according to counsel, is a violation of the fundamental rights guaranteed under the Constitution of the Islamic Republic of Pakistan, 1973. He further submits that the petitioner is a cancer patient and needs to visit his surgeon in Toronto, Canada, for urgent medical treatment. However, due to the placement of his name on the Exit Control List (ECL), Passport Control List (PCL), and/or PNIL, he is unable to travel abroad to receive the necessary medical care. Counsel contends that the petitioner's name was previously removed from the ECL, but has now been unlawfully re-included to harass him. He further argues that, under the applicable rules, the respondents are not authorized to place the petitioner's name on the ECL, PCL, or PNIL.

4. On the other hand, the learned Special Prosecutor NAB submits that the present petition is not maintainable on the ground that the Reference in question pertains to the Province of Sindh. He points out

that the cognizance has been taken by the Accountability Court in Karachi, Sindh. He argues, this Court lacks territorial jurisdiction to hear the matter, and the petition is liable to be dismissed.

5. Arguments heard, and record perused with the able assistance of learned counsel for the parties.

6. The mere existence of office(s) within the territorial limits of this Court does not, by itself, confer territorial jurisdiction. Territorial jurisdiction cannot be invoked in abstraction or on the basis of administrative presence alone, particularly where the subject matter pertains to the legal proceedings pending before the Court of competent jurisdiction. In such cases, the extraordinary constitutional jurisdiction of the High Court under Article 199 remains available to scrutinize matters, regardless of the physical location of the offices involved. In *Taufiq Asif v. Gen (R) Pervez Musharraf* (**PLD 2024 SC 610)**, the Honorable Supreme Court held that in determining the question of territorial jurisdiction of a High Court in writ matters under Article 199 of the Constitution, the guiding principle is to identify the dominant object of the petition. The court has to see the main grievance agitated and the ultimate relief sought. Moreover, it is also the situs of the impugned act or proceeding which is decisive in conferring jurisdiction. If the principal act or omission challenged in the petition occurred within the territorial limits of a particular High Court, only that Court may validly assume jurisdiction. A High Court cannot exercise writ jurisdiction merely because one of the

several impugned actions relates to a federal authority, if the main cause of action lies outside its territorial domain. Furthermore, it is impermissible to split causes of action or reliefs arising from a common transaction into multiple petitions before different High Courts, as prohibited by Order II, Rule 2 of the Code of Civil Procedure. Reliefs concerning acts of both federal and non-federal bodies must be sought through a single petition before the High Court, which has territorial jurisdiction over the entirety of the cause of action. Jurisdiction by association or implication is neither contemplated by the Constitution nor sustainable in law.

7. It is a matter of record that the Reference No. 01/2025 has been filed before the Administrative Judge of the Accountability Court, Sindh at Karachi, and the learned Trial Court took cognisance of the matter and issued a summons to the petitioner under Section 68 Cr.PC. It is also a matter of fact and record that prior to this petition, the petitioner filed C.P No. D-1880/2024 and sought the following relief:-

> *"a) Declare that the impugned Memorandum bearing No. 12/251/2021 dated 18.11.2001 is patently malafide, illegal, unconstitutional; without lawful authority, arbitrary void ab initio and offend the fundamental rights of the petitioner guaranteed under Articles 4,9,14 and 15 of the Constitution of Islamic Republic of Pakistan, consequently set aside the same.*
>
> *b) Direct the respondents to delete the name of the petitioner from Exit Control List restraining or interfering the right, to the petitioner to travel from Pakistan.*

c) *Suspend the operation of Memorandum bearing No. 12/251/2021 dated 18.11.2021 as well as restriction to travel and to allow the petitioner to travel freely to or from Pakistan.*

d) *Restrain the respondents, their officers, employees, agents, representatives or anyone else acting, working or claiming, through or under them from prohibiting the departure/arrival of the petitioner to or from Pakistan in any manner whatsoever.*

e) *Any other relief by this Hon'ble Court may deem fit and appropriate in the circumstances of the case may also be granted to the petitioner.*

After notice, the case was fixed for hearing. Learned counsel for the petitioner did not press the aforesaid petition which was dismissed with following order;-

> *"A reply on behalf of respondent No.3 National Accountability Bureau has been filed and is taken on record. In view of a letter disclosed therein anticipated action has been taken and in consequence thereof this petition is not pressed and is dismissed."*

8. In the instant petition, the petitioner sought approximately the same relief, especially prayer clause 'B' of the aforesaid petition. Once the petitioner filed a petition in Sindh High Court and prayed for the deletion of his name from ECL, then how the similar relief is being sought through the instant petition. Another significant aspect warranting the attention of this Court is that the petitioner has already filed Constitutional Petition No. D-506/2025 before the Hon'ble High Court of Sindh at its Principal Seat in Karachi and prayed for quashment of Reference No.01/2025 and suspension of its proceedings, which is pending adjudication over-there. It is manifest

that, having approached the Hon'ble High Court of Sindh, the petitioner ought to have sought permission from the same Court for his intended travel abroad for medical treatment, rather than invoking the jurisdiction of this Court. The principle of judicial propriety and comity among courts demands that such matters be placed before the forum already seized of the broader controversy.

9. It is also pertinent to observe that the petitioner, by splitting the relief sought, has approached two different High Courts simultaneously, this Court and the Hon'ble Sindh High Court, which is impermissible in law. Such parallel proceedings not only undermine judicial propriety but also carry the potential to result in conflicting observations or orders, thereby causing serious embarrassment to the administration of justice and defeating the principle of forum consistency.

10. Admittedly, the trial of Reference No. 01 of 2025, is pending before the learned Accountability Court, Sindh at Karachi, where cognizance of the matter has already been taken. In such circumstances, this Court is not vested with jurisdiction under Article 199 of the Constitution to interfere in matters that are directly within the domain of the trial court. Whether or not the personal presence of the petitioner is required during the pendency of proceedings is a matter to be determined by the competent trial court seized of the case. Any interference at this stage would amount to encroaching

upon the exclusive jurisdiction of the trial forum, which is not permissible under constitutional or statutory framework.

11. It is a settled proposition of law that in cases where proceedings are pending under the National Accountability Ordinance, 1999, the trial court is legally competent forum to determine whether an accused may be granted exemption from personal appearance, particularly where such exemption is sought for the purpose of travelling abroad. This view is fully supported by the scheme of the Code of Criminal Procedure, 1898 ("Cr.P.C.") and the legislative intent underlying Section 540-A thereof, which confers upon the trial court the discretion to grant such exemption. The Cr.P.C. provides a comprehensive procedural framework which governs all aspects of a criminal trial, including the attendance of accused persons and the grant of exemption. From the available record, it appears that the proceedings before the learned Accountability Court at Karachi are pending. However, there is no indication as to whether the petitioner has sought or been granted exemption from personal appearance under Section 540-A Cr.P.C. after informing the court of his intention to travel abroad. It is trite law that a High Court, while exercising constitutional jurisdiction under Article 199, cannot bypass or substitute the statutory role assigned to a trial court.

12. In the present case, the Federal Government has categorically submitted that it does not oppose the petitioner's departure from Pakistan, provided that the competent trial court grants permission

in this regard. We are unable to accept the contention of learned counsel for the petitioner that no such permission is required to be sought from the trial court. This argument is contrary to the express language and legislative scheme of Section 540-A Cr.P.C., which implicitly requires full disclosure by an accused of any intention to travel abroad as part of an application for exemption from appearance. It is only upon such disclosure that the trial court can meaningfully exercise its discretion. Furthermore, where the petitioner's name appears on the Exit Control List (ECL), it becomes all the more imperative for him to approach the Court of competent jurisdiction. All matters relating to exemption from appearance or permission to travel abroad are within the exclusive domain of the trial court and cannot be adjudicated upon under Article 199 of the Constitution without violating the statutory scheme.

13. In view of the foregoing discussion, it is abundantly clear that the petitioner has not only invoked the jurisdiction of this Court without proper territorial basis but has also simultaneously pursued the matter before the Hon'ble Sindh High Court, which is already seized of the matter. The issues raised by the petitioner are intimately connected with a pending criminal trial before the learned Accountability Court at Karachi, which alone is vested with the statutory competence to adjudicate upon all matters relating to the petitioner's appearance, exemption, and permission to travel abroad under the applicable provisions of law, particularly Section 540-A of

the Code of Criminal Procedure, 1898. Entertaining this petition under Article 199 of the Constitution would amount to unwarranted interference in trial proceedings and undermine the legislative framework governing criminal procedure. Accordingly, the instant petition is misconceived, not maintainable, and is hereby ***dismissed.*** All the pending CMs stand disposed of.

(MUHAMMAD AZAM KHAN)
JUDGE

(KHADIM HUSSAIN SOOMRO)
JUDGE

Approved for Reporting

Zahid