JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

W.P. NO. 1782 OF 2025

MALIK TAUS UR REHMAN

VS

SPECIAL JUDGE CENTRAL ISLAMABAD & ANOTHER

Petitioner by	**:**	**M. Sajjad Baloch, Advocate.**
Respondents by	**:**	**Mr. Usman Akbar Khan, State Counsel.** **Rana Hassan Abbas, ADPP/Amicus Curiae.**
Date of hearing	**:**	**17.06.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Writ Petition under Article 199 of Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as the **"Constitution"**), Malik Taus Ur Rehman **("Petitioner")** has challenged the Order dated 01.11.2024 **("Impugned Order")** passed by the learned Senior Special Judge Central-I, Islamabad, whereby perpetual warrants of arrest with red ink has been issued against the surety namely Maqbool Ahmad/father of the Petitioner, directions were issued to NADRA to block his CNIC and PTA to block all SIMs numbers if any issued in his name, and State Bank of Pakistan has also been informed to freeze all the accounts, if any, running in the name of surety.

2. The brief facts of the case as per the contents of the Petition are that in the year 2018, father of the Petitioner, Maqbool Ahmad s/o Munawar ud Din bearing CNIC 37405-5716882-1, stood surety for accused Javed Ali in case FIR No. 393/17 under Sections 18-22 E.O, 6 PA, P.S. FIA-AHTC, Islamabad. The said accused continued to appear before the Court for a considerable time and subsequently absconded from the Court of law on 01.12.2021, whereafter proceedings were initiated against the surety under Section 514 Cr.P.C. Due to non-appearance of the surety, vide Impugned Order dated 01.11.2024, the learned Senior Special Judge Central-I, Islamabad proceeded to block the CNIC, accounts, and passport of the father of the Petitioner. Hence, this Petition.

3. The learned counsel for the Petitioner submits that the Petitioner's father left for the UK on 07.04.2021 and has not returned since, and thus was unaware of the Court proceedings. A request to unblock his CNIC and Passport was rejected by the learned Trial Court. The father had stood surety in the sum of PKR 500,000/- for the accused, and the Petitioner is willing to deposit the said amount. Due to the blocked CNIC and Passport, a power of attorney could not be attested from the Pakistan Consulate. Therefore, this Petition has been filed through his real son and attorney. It is argued that blocking someone's CNIC and Passport restricts freedom of movement, which is protected under Article 15 of the Constitution. The learned counsel prays that the Impugned Order dated 01.11.2024 be set aside, and the CNIC, Passport, and bank accounts of Maqbool Ahmad be unblocked, and that deposit of the surety amount be allowed so that proceedings under Section 514 Cr.P.C. may be dropped.

4. The learned State Counsel argued that the father of the Petitioner was bound to produce the accused before the learned Trial Court; however, neither did he produce the accused nor did he appear himself. It is submitted that the learned Trial Court has rightly passed the Impugned Order by issuing a perpetual warrant of arrest against the surety and by blocking the CNIC and Passport, SIM numbers, and freezing the bank accounts of the surety/father of the Petitioner. Lastly, prayer was made for dismissal of the instant Petition.

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

6. After hearing the learned counsel for the parties and examining the record, it is revealed that the primary issue in this Petition revolves around the legality and proportionality of the coercive measures ordered by the learned Trial Court against the Petitioner's father, Maqbool Ahmad, in proceedings under Section 514 Cr.P.C. It is an admitted fact that Maqbool Ahmad stood as surety for the accused Javed Ali in FIR No. 393/17, and that the accused absconded during the trial proceedings on 01.12.2021. The learned Trial Court, upon failure of the surety to appear and explain the absence of the accused, issued a perpetual warrant for his arrest and simultaneously directed NADRA, PTA, and the State Bank of Pakistan to block or freeze all identity documents, SIMs, bank accounts, and the passport of Maqbool Ahmad. Although the Trial Court has the authority under Section 514 Cr.P.C. to forfeit the bond and recover the penalty, taking extra steps like blocking the CNIC and other personal documents, while not explicitly

barred, must still be evaluated in light of fundamental rights and examined for their proportionality.

7. The Petitioner has expressed an unconditional willingness to deposit the entire surety amount of PKR 500,000/- in cash, which achieves the principal objective of Section 514 Cr.P.C. Furthermore, no *mala fide* intent or collusion between the surety and the absconding accused has been alleged or established by the State.

8. This Court also finds that the Impugned Order was passed without affording an effective opportunity of hearing to Maqbool Ahmad, who could not even issue a power of attorney due to the blocked Passport and CNIC. The principle of natural justice demands that adverse actions affecting fundamental rights be preceded by due notice and opportunity to respond. Blocking national identification documents and financial instruments directly impacts an individual's rights. Such sweeping restrictions, imposed against a surety who has not been accused or convicted of any offence, are disproportionate and constitutionally infirm.

9. In light of these considerations, this Court holds that while the Trial Court was justified in initiating proceedings under Section 514 Cr.P.C. following the absconsion of the accused, the coercive measures adopted, i.e. blocking of CNIC, Passport, SIMs, and freezing of bank accounts, were excessive and violate the fundamental rights of the surety. Since the Petitioner is willing to fulfill the financial liability of the bond, no further coercive action is warranted.

10. Accordingly, the Writ Petition is **allowed**, and the Impugned Order dated 01.11.2024 is set aside. The Petitioner shall deposit the full surety amount of PKR 500,000/- before the learned Trial Court within fifteen (15) days from the date of this order.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the open Court on this _____ day of June 2025.

JUDGE

//Sajid//*