

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Asif Saeed Khan Khosa, CJ
Mr. Justice Sajjad Ali Shah
Mr. Justice Yahya Afridi

Civil Petition No. 639 of 2019

(Against the order dated 25.02.2019 passed by the Islamabad High Court, Islamabad in Writ Petition No. 352 of 2019)

Mian Muhammad Nawaz Sharif

...Petitioner

versus

The State, etc

...Respondents

For the petitioner:

Khawaja Haris Ahmad, Sr. ASC
Mr. Muhammad Zubair Khalid, ASC
Mr. Sher Afgan Asadi, ASC

For the State:

Mr. Nayyar Rizvi, Additional
Prosecutor-General, Accountability
Mr. Jehanzeb Barwana, Special
Prosecutor, Accountability
Mr. Naeem Tariq Sanghera, Special
Prosecutor, Accountability
Mr. Arshad Qayyum, Special
Prosecutor, Accountability
Dr. Qadeer Alam, AIG (Legal)
(Prison)
Asim Javed, D.S. Home Department

Date of hearing:

26.03.2019

ORDER

Asif Saeed Khan Khosa, C.J.:

Civil Miscellaneous Application No. 2667 of 2019

This miscellaneous application is allowed and the document appended therewith is permitted to be brought on the record of the main petition. Disposed of.

Civil Miscellaneous Application No. 2265 of 2019

2. This miscellaneous application is allowed and the concise statement of respondent No. 2 appended therewith is allowed to be brought on the record of the main petition. Disposed of.

Civil Petition No. 639 of 2019

3. Through this petition Mian Muhammad Nawaz Sharif petitioner has sought leave to appeal against the order dated 25.02.2019 passed by a learned Division Bench of the Islamabad High Court, Islamabad in Writ Petition No. 352 of 2019 whereby a prayer made by him regarding suspension of sentence and release on bail in a pending criminal appeal against his conviction and sentence was dismissed.

4. The petitioner had been convicted by the Accountability Court-II, Islamabad in Reference No. 19 of 2017 in respect of an offence under section 9(a)(v) read with section 14(c) of the National Accountability Ordinance, 1999 and was sentenced to rigorous imprisonment for seven years and to pay fine apart from some other sentences. The petitioner challenged his conviction and sentence before the Islamabad High Court, Islamabad through an appeal and during the pendency of that appeal he filed Writ Petition No. 352 of 2019 seeking suspension of his sentence and release on bail during the pendency of the appeal but on 25.02.2019 the said Writ Petition was dismissed by a learned Division Bench of the Islamabad High Court, Islamabad. Hence, the present petition before this Court.

5. We have heard the learned counsel for the parties at some length and have gone through the relevant record appended with this petition.

6. After addressing elaborate arguments in support of the petitioner's prayer for bail upon suspension of his sentence the learned counsel for the petitioner has prayed that the petitioner

may be enlarged on bail upon suspension of his sentence for a period up to eight weeks so as to provide him an opportunity of proper medical treatment of his choice and upon expiry of the requisite period the petitioner shall voluntarily surrender to custody regarding which the learned counsel for the petitioner has undertaken on behalf of the petitioner. The learned Additional Prosecutor-General, Accountability appearing for the National Accountability Bureau has, however, opposed the said prayer maintaining that the petitioner is a convicted prisoner who is already being offered as well as afforded the best medical treatment and facilities available in the country.

7. The medical reports of the petitioner brought on the record of the case do suggest that he has a long history of various ailments including cardiac complications, kidney problem, hypertension and diabetes. Some of the reports prepared by the Medical Boards and available on the record clearly recommend that "the patient's current symptoms necessitate coronary angiography, after nephrologist clearance" and that "the patient needs cardiac catheterization, for further management, in view of his symptoms of angina. Because of long standing history of comorbidities and complicated cardiac surgical history, a nephrologist and cardiac surgical backup is recommended during the cath." It has clearly been mentioned in such reports that while undergoing angiography the petitioner "will be at a mild moderate risk of contrast including nephropathy". In this peculiar backdrop, and extending due deference to the consistent medical opinion of senior doctors available on the record, the prayer made by the learned counsel for the petitioner regarding admission of the petitioner to bail upon suspension of his sentence for a limited period has been found by us to be reasonable. This petition is, therefore, converted into an appeal and the same is allowed and consequently the petitioner is admitted to bail upon suspension of his sentence subject to furnishing bail bond in the sum of Rs. 5,000,000/- (Rupees five million only) with two sureties each in the like amount to the satisfaction of the Additional Registrar (Judicial) of this Court in the following terms:

- i) The sentence of the petitioner handed down by the Accountability Court-II, Islamabad in Reference No. 19 of 2017 in respect of an offence under section 9(a)(v) read with section 14(c) of the National Accountability Ordinance, 1999 is suspended and he is admitted to bail for a period of six weeks from the date of his release as a consequence of this order. It is made clear that during this period the petitioner shall not leave or be allowed to leave the country.
- ii) Bail granted to the petitioner through the present order shall automatically stand canceled upon expiry of six weeks from the date of his release whereupon the petitioner shall surrender to custody voluntarily failing which he shall be retaken into custody. Surrender to custody by the petitioner shall not include surrendering before a court with an application for bail.
- iii) During the above mentioned period of six weeks the petitioner may get himself medically treated from medical practitioners and medical facilities of his choice in Pakistan.
- iv) If during that period of six weeks the appeal filed by the petitioner before the Islamabad High Court, Islamabad is finally decided by the said Court then upon such decision custody of the petitioner shall thereafter be regulated by an order of the High Court to be passed in that regard, if need be.

Chief Justice

Judge

Judge

Islamabad
26.03.2019
Not approved for reporting.
Arif