

**IN THE SUPREME APPELLATE COURT GILGIT- BALTISTAN,
GILGIT
Cr. PLA No.14/2011**

The state

Petitioner

Versus

Najam –ud –Din and another

Respondents

Advocate General Gilgit- Baltistan
Ali Nazar khan AOR.

ORDER DATED.10-10-2011.

This is a petition for cancellation of bail granted to the respondent Najam- ud- din a Government authorized ata dealer by the Chief Court. The respondent allegedly instead of delivering the Govt supply at the specified place sold the same to one Malook and thereby committed an offence under section 409, 420/34 PPC. The bail was allowed to the respondent mainly for the reason that Malook the star witness of the prosecution by tendering an affidavit has resiled from his statement under section 161 Cr.PC and supported the version of the accused that ata was unloaded in his shop as both tires of ata loaded vehicle were punctured in front of his shop. The learned Advocate General contended that the observation of the Chief Court on the merits of the case may cause serious prejudice to the prosecution case the trial and virtually, it was an order of acquittal at pre trial stage whereas apparently a case under section 409 and 420 PPC would be made out against the accused beyond any doubt and grant of bail in such a serious offence was not justified.

The learned counsel appearing on behalf of the respondent has submitted that the observation of the Chief Court was with reference to sub section (2) of section 497 Cr.PC which was tentative in nature and that in the given case the cancellation of bail without any complaint of misuse of concession of bail may not be justified. The learned counsel further submitted that the dealership of accused has already been cancelled and his detention in the Jail would be of no useful purpose, therefore, he was rightly allowed bail.

The transaction of unauthorized sale of the Atta of government supply on subsidized rate for public consumption by the Atta dealer or his carrier would squarely fall within the ambit of Section 409/ 420 /34 PPC. The authorized Atta agents are trustee of government property and sale of Atta in breach of trust is a misappropriation of Govt property to deprive the poor people from their right of supply of ata on control price which is a serious matter.

Be that as it may, we without further comment upon the matter or re-calling the bail order, expunched the observation of the Chief Court which may cause prejudice to the case of prosecution on merits at the trial and direct that since challan has already been submitted and this is a short case, therefore, the trial court while proceeding with the trial expeditiously will conclude the trial within three months and decide the matter on the basis of evidence to be brought on record quite independently without being influenced by the observation of Chief Court, strictly in accordance with law.
Disposed of.

Chief Judge

Judge

Judge