IN THE SUPREME COURT OF PAKISTAN
(Review Jurisdiction)

PRESENT:
Mr. Justice Asif Saeed Khan Khosa
Mr. Justice Ijaz Ahmed Chaudhry
Mr. Justice Gulzar Ahmed

Criminal Review Petitions No. 8-L and 10-L of 2013
in Criminal Petition No. 896-L of 2012
(Against the judgment dated 03.01.2013 passed by this Court in Criminal Petition No. 896-L of 2012)

Nazir Ahmed *(in Cr.R.P. No. 8-L of 2013)*
Sayyed Mazahar Ali Akbar Naqvi
(in Cr.R.P. No. 10-L of 2013)
...Petitioners

versus

The State, etc. *(in both cases)*
... Respondents

For the petitioners: Mr. Muhammad Ahsan Bhoon, ASC
(in Cr.R.P. No. 8-L of 2013)
Khawaja Haris Ahmed, Sr. ASC
(in Cr.R.P. No. 10-L of 2013)

For the State: Mr. Ahmad Raza Gillani, Additional Prosecutor-General, Punjab
(in both cases)

For the complainant: Ch. Muhammad Riaz Ahmad, ASC
(in both cases)

Date of hearing: 15.01.2014

JUDGMENT

Asif Saeed Khan Khosa, J.: The jurisdiction of this Court, as is evident from the provisions of Article 189 of the Constitution of the Islamic Republic of Pakistan, 1973, is not just to decide questions of law but it also extends to enunciating principles of law which decisions and principles are binding on all other courts in the country. The principles of law contemplated by Article 189 include principles regulating the practices in vogue in the field of

law and some of such practices and the principles enunciated in those regards are the subject of the present judgment.

2. The facts forming the basis for passage of the judgment of this Court under review admit of no ambiguity and the already settled principles of practice and propriety applicable thereto pose no difficulty of comprehension but the judgment under review has been taken exception to not only by the litigant affected by that judgment but also by the learned Judge of the Lahore High Court, Lahore whose order was set aside by this Court through the said judgment. The matter of a litigant filing a review petition before this Court is run of the mill but a Judge of a High Court approaching this Court in person and seeking review of a judgment of this Court is surely out of the ordinary and it may raise many an eyebrow in view of the provisions of Article VI of the Code of Conduct prescribed by the Supreme Judicial Council adherence to which a Judge of a High Court swears while making oath of his office. The said Article of the Code of Conduct reads as follows:

> "A Judge should endeavour to avoid, as far as possible, being involved in litigation either on his own behalf or on behalf of others."

In this peculiar, and rather disturbing, backdrop we have attended to different aspects of these review petitions with utmost care and have decided to restate some of the relevant principles of law and practice with clarity so that in future no Judge may maintain that he had difficulty in comprehending or applying the same.

3. The facts of the case are that one Muhammad Islam Advocate was murdered and in that respect Muhammad Siddique complainant (respondent No. 2 herein) had lodged FIR No. 733 at Police Station Baseerpur, District Okara on 29.10.2008 for offences under sections 148, 302, 149 and 109, PPC. In the FIR the complainant had implicated six persons as the culprits including Nazir Ahmed (petitioner in Criminal Review Petition No. 8-L of 2013) and one Madad Ali and according to the FIR Nazir

Ahmed petitioner had caused multiple firearm injuries in the abdomen of the deceased whereas Madad Ali co-accused had caused firearm injuries on the chest and other specified parts of the body of the deceased. During the investigation Nazir Ahmed petitioner and Madad Ali co-accused were opined by the police to be innocent and they were not even arrested which prompted the complainant to file a private complaint in respect of the same incident and against the same accused persons who had already been nominated in the FIR. After a full-dressed trial conducted in the private complaint the learned Additional Sessions Judge, Depalpur, District Okara found both Nazir Ahmed petitioner and Madad Ali co-accused guilty of the murder and *vide* judgment dated 19.05.2011 he convicted them for an offence under section 302(b), PPC read with section 34, PPC and sentenced them to imprisonment for life each as *Ta'zir* besides ordering them to pay a sum of Rs. 1,00,000/- each to the heirs of the deceased by way of compensation under section 544-A, Cr.P.C. or in default of payment thereof to undergo simple imprisonment for six months each. The benefit under section 382-B, Cr.P.C. was extended to them. Nazir Ahmed petitioner and Madad Ali co-convict assailed their convictions and sentences before the Lahore High Court, Lahore through Criminal Appeal No. 1082 of 2011 jointly filed by them. During the pendency of that appeal Madad Ali co-convict filed Criminal Miscellaneous No. 01 of 2011 seeking suspension of his sentence and release on bail which application was allowed by a learned Judge-in-Chamber of the Lahore High Court, Lahore (Sayyed Mazahar Ali Akbar Naqvi, J.) on 23.01.2012 on the grounds that there was previous enmity between the parties; Madad Ali was found by the police to be innocent; the complainant had filed his private complaint with a delay of six months; and the firearm injuries on some specified parts of the body of the deceased attributed to Madad Ali in the FIR were non-existent in the Post-mortem Examination Report pertaining to the deadbody of the deceased and in his private complaint the complainant had changed the locale of the injuries allegedly caused by Madad Ali so

as to bring them in line with the medical evidence. The operative part of the order dated 23.01.2012 reads as under:

> "6. There is no denial to this factum that the petitioner is nominated in the FIR with specific role, however, previous enmity between the parties is also an admitted fact. During the course of investigation, the petitioner was found innocent by the police and as such he was let off. In view of the premium of innocence, the complainant filed private complaint with the delay of six months, for which no plausible explanation has been rendered by the complainant and in the complaint the complainant has changed his stance qua locale of injuries ascribed to the petitioner. There is contradiction in the ocular as well as medical ocular account. Keeping in view the dictum of law laid down in the cases of 1994 SCMR 453 (Muhammad Afzal and another Versus The State), 2006 YLR 1953 (Muhammad Waheed Akhtar Versus The State) and 2008 MLD 396 (Fayyaz Maqsood and 3 others Versus The State), this Court is persuaded to accept this petition and suspend the sentence awarded to the petitioner and admit him to bail pending disposal of the main appeal subject to his furnishing bail bonds in the sum of Rs. 1,00,000/- (Rupees one lac only) with one surety in the like amount to the satisfaction of the Deputy Registrar (J) of this Court."

The said order of the Lahore High Court, Lahore was challenged by Muhammad Siddique complainant before this Court through Criminal Petition No. 95-L of 2012 which petition was dismissed by this Court on 14.03.2012 as having been withdrawn. After suspension of Madad Ali co-convict's sentence and his admission to bail Nazir Ahmed petitioner filed Criminal Miscellaneous No. 01 of 2012 before the Lahore High Court, Lahore seeking the same relief for himself but that application was dismissed by another learned Judge-in-Chamber of the said Court (Abdus Sattar Asghar, J.) on 20.02.2012 for non-prosecution. The order dated 20.02.2012 reads as follows:

> "Despite repeated calls no one entered appearance on behalf of the petitioner. Name of learned counsel for the petitioner appears in the cause list but there is no intimation with regard to his absence.
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> 2. Dismissed for non-prosecution."

Subsequently Nazir Ahmed petitioner made his second attempt for the same relief through Criminal Miscellaneous No. 02 of 2012 which application was dismissed by Sayyed Mazahar Ali Akbar Naqvi, J. on 11.04.2012 with the following order:

> "Learned counsel for the petitioner, after arguing the case at some length, wishes to withdraw the instant petition. Dismissed as withdrawn."

Undeterred by failure of his two earlier applications for suspension of sentence and release on bail Nazir Ahmed petitioner made his third attempt for obtaining the same relief through Criminal Miscellaneous No. 03 of 2012 which was not filed through the original learned counsel who had filed and represented him in the earlier two applications but was filed through a different learned counsel and this time the attempt was crowned with success as the same learned Judge-in-Chamber of the Lahore High Court, Lahore who had dismissed the second application of the petitioner for the same relief suspended his sentence and released him on bail on 19.11.2012. The operative part of the order dated 19.11.2012 passed by Sayyed Mazahar Ali Akbar Naqvi, J. reads as follows:

> "This is the third petition on the subject. The first one bearing Crl. Misc. No. 01/2012 was dismissed for non-prosecution vide order dated20.02.2012, whereas the second petition bearing Crl. Misc. No. 02/2012 was dismissed as withdrawn vide order dated 11.04.2012.
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> 6. From the perusal of the record it reveals that the petitioner was nominated in the FIR with specific role but during the course of investigation, he was found innocent and was let off by the investigating agency and thereafter, the complainant filed private complaint after a delay of six months for which no plausible explanation has been rendered. Moreover, there is previous enmity between the parties. The role ascribed to the petitioner is that he while armed with .222 bore Rifle fired two fire shots, which hit to Muhammad Islaam (deceased), whereas the role ascribed to the co-accused, Madad Ali, is that he also made two successive fire shots with his rifle .222 bore, which hit his chest. Thus, the role ascribed to the petitioner is identical to that of his co-accused, namely Madad Ali, whose sentence has already been suspended by this Court vide order dated 23.01.2012, passed in Crl. Misc. No. 01/2011, filed in Crl. A. No. 1082/2011, which was assailed before the august Supreme Court of Pakistan through Criminal Petition No. 98-L of 2012 and the same was dismissed as withdrawn.
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> 7. For the foregoing reasons, this Court is persuaded to accept this petition, suspend the sentence awarded to the petitioner and admit him to bail pending disposal of the main appeal subject to his furnishing bail bonds in the sum of Rs.

> 1,00,000/- with one surety in the like amount to the satisfaction of deputy Registrar (Judicial) of this Court."

That order passed by the Lahore High Court, Lahore on 19.11.2012 was assailed before this Court by Muhammad Siddique complainant through Criminal Petition No. 896-L of 2012 which petition was converted into an appeal and was allowed by this Court on 03.01.2013, the impugned order was set aside and bail allowed by the Lahore High Court, Lahore to Nazir Ahmed petitioner was cancelled. The relevant parts of the judgment passed by this Court on 03.01.2013 are reproduced below:

> "6. The complainant in his private complaint ascribed respondent No. 2 the role of causing two injuries on the person of the deceased Muhammad Islam on his abdominal area and Madad Ali co-convict made two successive fire shots with his .222 bore rifle which hit the deceased on his chest. Both the aforesaid accused having been found guilty by the learned trial Court were convicted under section 302(b) PPC and sentenced to imprisonment for life. Madad Ali co-convict of respondent No. 2 filed Crl. Misc. 01/2011 in Crl. Appeal No. 1082/2011 for suspension of his sentence before the learned Lahore High Court, Lahore which stood allowed on 23.01.2012 whereby his sentence was suspended. Thereafter, respondent No. 2 moved an application (Crl. Misc. 01/2012) for suspension of his sentence which stood dismissed for non-prosecution as is evident from the certificate given by the learned counsel for respondent No. 2 at the bottom of Crl. Misc. 03/2012. Thereafter, respondent No. 2 filed Crl. Misc. 02/2012 before the learned Lahore High Court, Lahore, which stood dismissed as withdrawn but on the same grounds the third application (Crl. Misc. 03/2012) was allowed by the learned Lahore High Court, Lahore by totally ignoring the principles for suspension of sentence and other material available on record by suspending the sentence of respondent No. 2 through impugned order. The main ground taken by the learned Judge of the Lahore High Court for suspending the sentence of respondent No. 2 was rule of consistency having similarity of roles ascribed to respondent No. 2 as well as Madad Ali co-convict, as such, the impugned order has been passed in violation of the law laid down by this Court in the case of "The State through Advocate General NWFP vs. Zubair and four others" (PLD 1986 Supreme Court 173) wherein it has been held as under:
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> > 8. It might be useful to mention here that the second or the subsequent bail application to the same Court shall lie only on a fresh ground namely, a ground which did not exist at the time when the first application was made. If a ground was available to the accused at the time when the first bail application was filed and was not taken or was not pressed, it cannot be considered as a fresh ground and made the basis of any subsequent bail application. We may also point out, with respect to the learned Judge who dealt with the second bail application that the mere fact that the learned Judge who had rejected the first bail application of

> the respondents with the observation that as far as the remaining petitioners (the respondents herein) are concerned no case had been made out for their release on bail, does not mean that the application had not been disposed of on merits. It must be assumed that he had considered all the pleas or grounds raised by the applicant's counsel before him and that the same had not found favour with him."
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> In such circumstances it is apparent on the face of record that the ground of similarity of role and rule of consistency was available to the petitioner at the time of filing first application for suspension of sentence but the learned Judge has totally ignored it. From the tenor of impugned order it appears that the learned Judge of the Lahore High Court while suspending the sentence of respondent No. 2 has not exercised discretion in a proper and judicious manner rather has not at all adverted to the guidelines laid down in Zubair's case (supra).
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> 7. In view of the above, we while converting the instant petition into an appeal allow the same, set aside the impugned order dated 19.11.2012 passed by the Lahore High Court, Lahore in Crl. Misc. 03/2012 in Crl. Appeal No. 1082/2011 and cancel the bail granted to respondent No. 2.
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> 8. Before parting with this order we may observe that discretion exercised by the learned Judge while passing the impugned order in the instant case has appeared to us to be somewhat colourable because after dismissal of second application for suspension of sentence bearing the same ground the only difference in the respondent's third application for the same relief was a different learned counsel for that respondent. Office is directed to send a copy of this order to the learned Judge of the Lahore High Court, Lahore for his information."

Hence, the present review petitions before this Court. Criminal Review Petition No. 8-L of 2013 has been filed by Nazir Ahmed petitioner seeking restoration of his bail and Criminal Review Petition No. 10-L of 2013 has been preferred by Sayyed Mazahar Ali Akbar Naqvi, Judge, Lahore High Court, Lahore praying for expunction of some observations concerning him made by this Court in paragraph No. 8 of the judgment under review.

4. In support of the review petition filed by Nazir Ahmed petitioner it has been argued by Mr. Muhammad Ahsan Bhoon, ASC that keeping in view the facts and circumstances of the case as well as the rule of consistency the learned Judge-in-Chamber of the Lahore High Court, Lahore was quite justified in suspending the sentence of Nazir Ahmed petitioner and in admitting him to bail during the pendency of his appeal, particularly when the case

against the said petitioner for such relief was at par with that of his co-convict namely Madad Ali who had already been granted the same relief by the same Court. Mr. Bhoon has also argued that in entertaining and deciding the relevant application of Nazir Ahmed petitioner on its merits the learned Judge-in-Chamber of the Lahore High Court, Lahore had followed the law declared by this Court in the cases of *Muhammad Riaz v. The State* (2002 SCMR 184) and *Ali Hassan v. The State* (2001 SCMR 1047) and, therefore, the legitimate exercise of jurisdiction and discretion in the matter by the learned Judge-in-Chamber of the Lahore High Court, Lahore ought not to have been interfered with by this Court through the judgment under review. While referring to the case of *Makhdoom Javed Hashmi v. The State* (2008 SCMR 165) Mr. Bhoon has submitted that in an appropriate case this Court may suspend the sentence of a convict and grant him bail even through exercise of review jurisdiction of this Court. Mr. Bhoon has lastly maintained that the contents of paragraph No. 8 of the judgment under review tend to cast aspersions not only upon the learned Judge-in-Chamber of the Lahore High Court, Lahore but also upon him as he was the counsel for Nazir Ahmed petitioner in the said petitioner's third application for suspension of sentence and bail which application was allowed by the Lahore High Court, Lahore. He, therefore, not only seeks review of the judgment of this Court under review but also prays for expunction of the relevant observations made by this Court in that judgment.

5. Khawaja Haris Ahmad, Sr. ASC appearing for Mr. Justice Sayyed Mazahar Ali Akbar Naqvi petitioner has submitted that he only seeks expunction of the remarks made by this Court in paragraph No. 8 of the judgment under review and that he has nothing to say regarding the merits or otherwise of Nazir Ahmed petitioner's case for suspension of sentence and bail. The main thrust of his submissions has been that the case of *The State through Advocate-General, N.W.F.P. v. Zubair and 4 others* (PLD 1986 SC 173) was not relevant to the case in hand because nothing had been said in that precedent case about maintainability

or otherwise of a subsequent application for bail after dismissal of an earlier application for bail as having been withdrawn. According to Mr. Khawaja the only precedent cases relevant to the issue involved in the present case were the cases of *Muhammad Riaz v. The State* (2002 SCMR 184) and *Ali Hassan v. The State* (2001 SCMR 1047) and the relevant order passed by Sayyed Mazahar Ali Akbar Naqvi, J. was in accord with the principle laid down in the said precedent cases. Mr. Khawaja has maintained that till the passage of the judgment under review different Honourable Judges of different High Courts of the country had been taking the same view of the matter as was taken by Sayyed Mazahar Ali Akbar Naqvi, J. in the order set aside by this Court through the judgment under review and even Sayyed Mazahar Ali Akbar Naqvi, J. had taken the same view in seven other orders passed by him in different cases decided by him in the year 2012. In this respect he has placed on the record copies of the said seven orders passed by Sayyed Mazahar Ali Akbar Naqvi, J. and has also referred to the cases reported as *Wajid Ali v. The State* (2009 P.Cr.L.J. 275), *Mustaqeem v. The State* (2005 P.Cr.L.J. 661), *Rasheed Ahmad v. The State* (2007 MLD 1440), *Muhammad Mansha v. The State* (2006 P.Cr.L.J. 47), *Muhammad Asif alias Kala v. The State* (2007 P.Cr.L.J. 1292), *Muhammad Idrees v. The State* (2005 MLD 899), *M. Latif v. The State* (1996 MLD 2041) and *Akbar Ali v. Jamshaid Ali and others* (2012 P.Cr.L.J. 1301). Mr. Khawaja has gone on to submit that there was no malice on the part of Mr. Justice Sayyed Mazahar Ali Akbar Naqvi petitioner in passing the relevant order in the case of Nazir Ahmed petitioner and the mistake, if any, in the *bona fide* order passed by him in the said case could only be attributed to confusion and lack of proper understanding of the true import of the principle laid down in the above mentioned cases of *Muhammad Riaz v. The State* (2002 SCMR 184) and *Ali Hassan v. The State* (2001 SCMR 1047). He has, therefore, maintained that the remarks or observations made by this Court in paragraph No. 8 of the judgment under review were uncalled for and has urged that this Court may order expunction of the same. In the end Mr. Khawaja has submitted that ordinarily no adverse

remark or observation is to be made or recorded in a judgment of a court without issuing notice to the concerned person or before affording him an opportunity of being heard in the relevant connection and in this respect he has placed reliance upon the cases of *Muhammad Punhal v. Abdul Wahid Abbasi and another* (2003 SCMR 1406), *In the matter of expunging certain remarks made by a Magistrate against Additional District and Sessions Judge, Lyallpur* (PLD 1950 Lahore 34), *Syed Ali Nawaz Gardezi v. Lt.-Col. Muhammad Yusuf* (PLD 1963 SC 51) and *Malik Firoz Khan Noon, Prime Minister's House, Karachi v. The State* (PLD 1958 SC (Pak.) 333).

6. The learned counsel for Muhammad Siddique complainant has maintained that the judgment of this Court under review is a just and fair judgment besides being a considered judgment and the same addresses and cures a serious malady creeping into conducting of criminal cases and, therefore, the same does not call for a review. Regarding the scope of review jurisdiction he has referred to the case of *Muhammad Riaz v. The State* (2011 SCMR 1019). He has complained that despite cancellation of his bail by this Court Nazir Ahmad petitioner has so far managed to avoid his arrest although no interim relief has been granted to him by this Court during the pendency of the captioned review petitions. The learned Additional Prosecutor-General, Punjab appearing for the State has supported the learned counsel for the complainant and has added that these review petitions essentially seek rehearing of the merits of the case which exercise lies beyond the scope of review jurisdiction of this Court.

7. After hearing the learned counsel for the parties and going through the relevant record with their assistance we find that there are many issues involved in these review petitions and, thus, in the background of the facts of this case we have decided to discuss and resolve these issues one by one in the light of the principles concomitant thereto laid down by this Court from time to time. We find that the first issue involved in the review petitions in hand is

as to whether the considerations weighing with the learned Judge-in-Chamber of the Lahore High Court, Lahore for suspending the sentence of Nazir Ahmed petitioner and for releasing him on bail during the pendency of his appeal were valid considerations for grant of the said relief on the merits of the case. We note in this context that the reasons prevailing with the learned Judge-in-Chamber of the Lahore High Court, Lahore for suspending the sentence of Nazir Ahmed petitioner and for admitting him to bail were that in the Challan case the police had found the petitioner innocent; the complainant had filed his private complaint after a delay of six months; there was previous enmity between the parties; and the sentence of a co-convict of the petitioner namely Madad Ali, attributed a role identical to that alleged against the petitioner, had already been suspended and he had been admitted to bail by the Lahore High Court, Lahore through an order which had not been interfered with by this Court. The facts and circumstances of the case, however, show that none of the said reasons provided a valid or sufficient ground for suspending the sentence of Nazir Ahmad petitioner and for his admission to bail during the pendency of his appeal before the Lahore High Court, Lahore. It ought to have been appreciated by the learned Judge-in-Chamber of the Lahore High Court, Lahore that any declaration of innocence of Nazir Ahmad petitioner recorded by the police in the Challan case was irrelevant as the petitioner's trial had been conducted in the complainant's private complaint and not in the Challan case and even otherwise opinion of the police regarding the petitioner's innocence was inadmissible in evidence being irrelevant besides such opinion having already paled into further irrelevance in view of the judicial verdict recorded by the learned trial court in respect of the petitioner's guilt. The learned Judge-in-Chamber of the Lahore High Court, Lahore had also failed to appreciate that the complainant had filed his private complaint when the investigating agency had disappointed and frustrated him on account of its alleged collusion with the accused party and the reasons for the delay in filing of the private complaint had been explained by the complainant before the learned trial court which

reasons had been accepted by it as justified. Mere existence of enmity between the parties was hardly a valid ground for suspending the petitioner's sentence and for his admission to bail because the learned trial court had already adjudged the petitioner guilty of the alleged murder and the existing enmity between the parties had been found by it to be supporting the motive set up by the prosecution. Apart from that existence of enmity between the parties and a possibility of false implication of the petitioner on the basis of such enmity was a factor which could only be attended to and appreciated by the learned appellate court after a detailed assessment of the evidence at the time of hearing of the main appeal and certainly not at the time of deciding an application seeking suspension of sentence and release on bail during the pendency of the appeal. The learned Judge-in-Chamber of the Lahore High Court, Lahore was also clearly unjustified in holding that the case of Madad Ali co-convict was "identical" to that of Nazir Ahmed petitioner and, therefore, in view of Madad Ali's admission to bail upon suspension of his sentence Nazir Ahmed petitioner was also entitled to the same relief. The learned Judge-in-Chamber of the Lahore High Court, Lahore had committed a serious error in this respect by not appreciating, or ignoring, the fact that most of the firearm injuries to the deceased attributed by the complainant in the FIR to Madad Ali were non-existent in the Post-mortem Examination Report pertaining to the deadbody of the deceased and, therefore, in his private complaint the complainant had changed the locale of the injuries allegedly caused by Madad Ali to the deceased whereas the complainant had throughout been quite consistent in his FIR as well as in his private complaint regarding the firearm injuries caused by Nazir Ahmed petitioner to the deceased which injuries stood duly reflected in the Post-mortem Examination Report. In view of this factual position it could not be urged with any degree of seriousness or held with any degree of reasonableness that the case of Nazir Ahmad petitioner was identical to that of Madad Ali co-convict for the purpose of treating them alike in the matter of suspension of sentence and release on bail. For all these reasons a conclusion is irresistible

and inescapable that the learned Judge-in-Chamber of the Lahore High Court, Lahore was not justified in suspending the sentence of Nazir Ahmed petitioner and in admitting him to bail on the merits of the case and, thus, cancellation of his bail by this Court brought about through the judgment under review cannot be taken any legitimate exception to. The learned counsel for Nazir Ahmed petitioner has remained unable to point out any error patent on the face of the record justifying review of that decision by this Court.

8. The second issue involved in the present review petitions is as to whether all the grounds prevailing with the learned Judge-in-Chamber of the Lahore High Court, Lahore for suspending the sentence of Nazir Ahmed petitioner and for releasing him on bail during the pendency of his appeal were available to the petitioner at the time of dismissal of his earlier two applications filed before the Lahore High Court, Lahore for the same relief and, thus, the said grounds could not have been agitated or entertained for granting him the same relief through his third application. It may be recapitulated that Nazir Ahmed petitioner and Madad Ali co-convict had been convicted and sentenced by the learned trial court on 19.05.2011, the sentence of Madad Ali was suspended and he was released on bail by the Lahore High Court, Lahore on 23.01.2012, the first application filed by Nazir Ahmed petitioner for the same relief was dismissed for non-prosecution by the Lahore High Court, Lahore on 20.02.2012, the second application filed by him for the same relief had been dismissed by the Lahore High Court, Lahore on 11.04.2012 as having been withdrawn after the learned counsel for the petitioner had addressed arguments “at some length” but had remained unable to convince the Court on the merits of the case and the third application filed by the petitioner for the same relief was allowed by the Lahore High Court, Lahore on 19.11.2012. It has already been noted by us above that the grounds prevailing with the Lahore High Court, Lahore for suspending the sentence of Nazir Ahmed petitioner and for releasing him on bail were that in the Challan case the police

had found the petitioner innocent; the complainant had filed his private complaint after a delay of six months; there was previous enmity between the parties; and the sentence of a co-convict of the petitioner namely Madad Ali, attributed a role identical to that alleged against the petitioner, had already been suspended and he had been admitted to bail by the Lahore High Court, Lahore through an order which had not been interfered with by this Court. It is nothing but obvious from the chronological sequence detailed above that all the said grounds were already available to Nazir Ahmed petitioner at the time of filing of his first and second applications for suspension of sentence and release on bail and the said grounds had in fact been mentioned by him in those applications and, thus, the said grounds, none of which could be termed as a fresh ground, could not be taken or urged by him or on his behalf for the purposes of his third application seeking the same relief, particularly when the second application filed by him had been dismissed as having been withdrawn after his learned counsel had argued the matter “at some length” but had remained unable to convince none other than Sayyed Mazahar Ali Akbar Naqvi, J. himself for grant of the desired relief to the petitioner.

9. In the context of the issue under discussion it may be pertinent to mention that on a number of occasions this Court has held that the principles for exercise of jurisdiction under sections 497 and 426, Cr.P.C., one pertaining to grant of bail after arrest at the stage of trial and the other relating to suspension of sentence and release on bail at the stage of appeal against conviction, are essentially the same as the two provisions are analogous, they deal with a similar relief and they are parts of the same statute. A reference in this respect may be made to the cases of *Maqsood v. Ali Muhammad and another* (1971 SCMR 657), *Bashir Ahmad v. Zulfiqar and another* (PLD 1992 SC 463), *Muhammad Nabi and 4 others v. The State* (2006 SCMR 1225) and *Raja Shamshad Hussain v. Gulraiz Akhtar and others* (PLD 2007 SC 564). Over a passage of time this Court had noticed some mischiefs and malpractices being practised in the matter of applying for bail and

from time to time this Court had enunciated and laid down certain principles for curbing such mischiefs and malpractices. One of such mischiefs and malpractices was repeated or successive filing of applications for bail for the same accused person in the absence of availability of any fresh ground and another was getting subsequent applications for bail fixed before a Judge different from the one who had refused the desired relief on an earlier occasion. We deem it appropriate to refer here to the leading judgments handed down by this Court in these regards and the principles of propriety and practice enunciated in the same. In the case of *Farid v. Ghulam Hassan and others* (1968 SCMR 924) this Court had observed as follows:

> "It should also have been a matter of some concern to the learned Judge that one of his brother Judges had already dealt with the case and expressed himself strongly against the grant of bail by the Additional Sessions Judge. Not only the long established practice of his Court, but also the rule of propriety required that he should have transferred the application for bail to the first Judge for disposal. Such a course would have had the merit of avoiding the possibility of two contradictory orders being passed in the same case by the High Court. It was urged that the plea of *alibi* was not considered by the High Court while cancelling the bail granted to the respondents, but the plea was neither urged before the Sessions Judge nor before Mr. Justice Jamil Asghar. It could not, therefore, be said that a new circumstance was made to appear which justified the passing of a contradictory order."

In the case of *Gul Nawaz alias Gul Mowaz and 2 others v. The State* (1970 SCMR 667) it had been observed by this Court as under:

> "The High Court was in our view also right in holding that repeated applications for bail on the same facts did not lie in the High Court."

This Court had gone a step further in this respect in the case of *Chaudhry Muhammad Khan v. Sanaullah and another* (PLD 1971 SC 324) as is evident from the following passages of the judgment delivered in that case:

> "The order passed by the learned Judge allowing bail to the respondent No. 1 was thus based on misconstruction of the record and it also suffered from the impropriety pointed out by this Court in the case of *Farid v. Ghulam Hussain and others* (1968 SCMR 924). Dealing with a similar case in which a learned

Judge had allowed bail to an accused person who had been refused bail by another Judge, it was observed by this Court:

> "It should also have been a matter of some concern to the learned Judge that one of his brother Judges had already dealt with the case and expressed himself strongly against the grant of bail by the Additional Sessions Judge. Not only the long established practice of his Court, but also the rule of propriety required that he should have transferred the application for bail to the first Judge for disposal. Such a course would have had the merit of avoiding the possibility of two contradictory orders being passed in the same case by the High Court. It was urged that the plea of *alibi* was not considered by the High Court while cancelling the bail granted to the respondents, but the plea was neither urged before the Sessions Judge nor before Mr. Justice Jamil Asghar. It could not, therefore, be said that a new circumstance was made to appear which justified the passing of a contradictory order."

We fail to see why the rule laid down in *Farid v. Ghulam Hussain and others* which must have been brought to the notice of the learned Judge was not followed in the present case. We were told that when interim bail was granted the first Judge was not available. But having granted interim bail to the respondent No. I he should have stayed his hand and sent the case back to the first Judge who had in the first instance refused bail.

We do not want to lay more stress on this point except to point out to the learned Judge the constitutional duty that any decision of the Supreme Court shall to the extent that it decides a question of law or is based upon or enunciates a principle of law is binding on all other Courts in Pakistan and that all Judicial authorities throughout Pakistan shall act in aid of the Supreme Court. If these provisions of the Constitution were given due consideration, we are sure that the second learned Judge would not have passed the order dated 31st July 1970, which in effect was tantamount to countermanding the order of the first learned Judge.

In the circumstances, the order granting bail to the respondent No. 1 cannot be sustained on any hypothesis. It is erroneous in law, is based on misconstruction of record and suffers from the impropriety that another learned Judge having refused bail it was necessary that the case be sent to him for passing final orders.

We, accordingly, allow the appeal and set aside the order dated 31st July 1970 of the High Court granting bail to the respondent No. 1. He shall surrender to his bail bond forthwith."

Another ground was broken by this Court in this regard in the case of *Muhammad Khan v. Muhammad Aslam and 3 others* (1971 SCMR 789) by holding as follows:

> "Since leave was granted this Court has in more than one case pointed out that as a judgment delivered in a criminal case is not

> open to review under the Code, it is not proper for a learned Judge of the High Court to allow bail to an accused person who has been earlier refused bail by another Judge of the same Court. It does not mean that once bail is refused by the High Court no fresh application for bail will lie. If fresh grounds have come into existence bail may be allowed, but in such a case the rule of propriety and harmony of the Court requires that the case be referred to the same learned Judge who had earlier refused bail."

The case of *Saleh Muhammad v. The State and another* (1983 SCMR 341) was the next case in line wherein the same principle was reiterated as under:

> "It will be observed that the request of the respondent for bail was once rejected on merits by the first order of the High Court, dated 14-10-1980 and normally, unless the repeated request was made on grounds other than those available at the time of the first application, no fresh application on merits could be entertained by the High Court."

Both the mischiefs and malpractices under discussion were subsequently commented upon by this Court in the case of *Khan Beg v. Sajawal and others* (PLD 1984 SC 341) in the following words:

> "That being the legal position, the plea that the challan had not been filed in the trial Court but is still with the Magistrate could hardly furnish a fresh ground for re-opening of the bail matter disposed of on 4-2-1984. Nor could the interval of ten days between the disposal of the first petition and the filing of the second, be said to amount to delay in the trial of the case. Normally a bail petition should be placed before the same Judge who had dealt with the earlier petition. We are told that the learned Judge who had dealt with the earlier petition had returned to Lahore. Even so, the petition could have been sent to Lahore for hearing by the same learned Judge. The practice of withdrawing a petition from before one Judge and then making a fresh petition soon thereafter so that the same be dealt with by another Judge cannot be approved. We are satisfied that no proper or fresh ground existed for making or entertaining the second bail petition. We, therefore, convert this petition into appeal and allow it. The impugned order granting bail to respondents 1 to 7 is set aside."

Then came the landmark case of *The State through Advocate-General, N.W.F.P. v. Zubair and 4 others* (PLD 1986 SC 173) wherein this Court dealt with the mischiefs and malpractices under discussion in some detail and laid down the relevant principles with exactitude and clarity leaving no room for any

mischievous machination. The relevant passages of the judgment rendered in that case are reproduced below:

> "5. We have heard the learned counsel for the parties at length and have also gone through the case-law on the subject.
>
> With profound respect to the learned Judges of the High Court who dealt with second bail application, we notice that a salutary and well-established principle relating to the hearing of successive bail applications filed by the accused persons in the same case (or in the cross-case), has been violated in this case. As already mentioned the learned Judge who heard the first bail application declined to hear their subsequent bail application on the ground that he had already expressed his opinion thereon. No doubt, on general principle, a Judge having once expressed his opinion of a lis should, ordinarily, decline to hear the same matter again directly or collaterally. There are, however, well-known exceptions to this rule, one of which is hearing of a review application where ever this power is given by statute. The other is the general practice which has been established by series of judgments delivered by this Court as well as by the High Courts during the last about 20 years, namely, that when a bail application of one or more accused is heard by a learned Single Judge of the High Court, it is he alone who should also hear all the subsequent bail applications filed by the same or other accused in the same case, or the cross-case. The following authorities may be referred to in this connection:-
>
> (1) Farid v. Ghulam Hussain 1968 SCMR 924.
> (2) Muhammad Khan v. Sanaullah PLD 1971 SC 324,
> (3) Muhammad Khan v. Muhammad Aslam 1971 SCMR 789.
> (4) Khan Beg v. Sajawal PLD 1984 SC 341.
> (5) Muhammad Adam v. The State 1968 P.Cr.L.J. 152.
> (6) The State v. Muhammad Yousaf 1979 P.Cr.L.J. 665.
> (7) Ghulam Hussain v. Karim Bakhsh NLR 1980 Criminal 248.
>
> 6. It is held in some of these judgments that if a Judge of the High Court has heard the bail application by an accused person all subsequent petitions for bail by the same accused or in the same case should be referred to the same Bench which had disposed of the earlier petition.
>
> 7. Another principle enunciated in some of the rulings is that it is the duty of the counsel to mention in a bail application filed by him the fact of having filed an earlier bail application, also stating the result thereof. Failure on the part of the counsel to do so would, in fact, amount to professional misconduct because the concealment of the fact of the dismissal of the earlier bail application of the accused or the co-accused and getting a subsequent bail application decided by another Judge of the same Court may result in conflicting judgments and disharmony to the Court. It was held in the case of Farid v. Ghulam Hussain (1968 SCMR 924) that where one Judge of the High Court has expressed himself against the grant of bail, another learned Judge of the same High Court in accordance with the long established practice and rule of propriety, when moved for bail of an accused or his co-accused in the same case should transfer such bail application for disposal to the same Judge who had already dealt with the matter earlier in order to avoid contradictory order. The latest ruling on the subject is Khan Beg v. Sajawal (PLD 1984 SC 341) where, apart from holding that all subsequent bail applications in the same case should be placed before the same

> learned Judge who had dealt with the earlier bail application, this Court also disapproved the practice of withdrawing a petition from one Judge and then making a fresh bail application, soon thereafter, so that same may be dealt with by another Judge.
>
> The aforementioned principles enunciated by these judgments are based on the salutary principles, inasmuch as the practice of filing successive bail applications in the same case by the same person or his co-accused and getting it fixed before a different Judge, is not only likely to result in conflicting judgments but also tends to encourage malpractice by the accused persons and to bring the judicial system into disrepute, because in the event of a conflicting order being given by another learned Judge in a subsequent application, an impression, though false, may be created that the second order was based on extraneous considerations. It is mainly to avoid this that this Court has emphasized, over and over again, that subsequent bail application must be placed for disposal before the same learned Judge who had dealt with the first bail application and also that the counsel must disclose the fact of having filed a previous application and to state the result thereof. It is regrettable that this salutary rule was overlooked by the learned Judges who dealt with the second bail application in the present case.
>
> 8. It might be useful to mention here that the second or the subsequent bail application to the same Court shall lie only on a fresh ground namely, a ground which did not exist at the time when the first application was made. If a ground was available to the accused at the time when the first bail application was filed and was not taken or was not pressed, it cannot be considered as a fresh ground and made the basis of any subsequent bail application. We may also point out, with respect to the learned Judge, who dealt with the second bail application that the mere fact that the learned Judge who had rejected the first bail application of the respondents with the observation that as far as the remaining petitioners (the respondents herein) are concerned no case had been made out for their release on bail, does not mean that the application had not been disposed of on merits. It must be assumed that he had considered all the pleas or grounds raised by the applicant's counsel before him and that the same had not found favour with him. It may be pointed out, with great respect, that the notion that each contention raised before the Court in a bail application must be dealt with separately or repelled by recording elaborate reasoning is totally misconceived. We are of the view that in the present case the learned Judge who dealt with the second bail application had in fact embarked on a review of the order of the learned Judge who had earlier dismissed the first bail application."

Subsequently some clarifications were made in this regard by this Court in the case of *In re: To revisit "The State v. Zubair" [PLD 1986 SC 173* (PLD 2002 SC 1 and 2002 SCMR 171) in the following terms:

> "6. In the light of the observations made, the case-law referred to in order dated 24.09.2001, the submissions made by the learned Attorney-General for Pakistan, the stance taken at the Bar by the learned Advocates-General/Additional Advocates-General and the reproduced reports of the Registrars of the

Federal Shariat Court and the High Courts, there can be no dispute with the proposition that there is a pressing need to lessen the intensity of the ratio in Zubair (supra) vis-à-vis the forum for disposal of second or subsequent bail applications. Resultantly, the interim order dated 24.09.2001 is confirmed with the following modifications/clarifications:

(1) Constitution of the Benches is the exclusive function of the Chief Justice.

(2) Ordinarily, subsequent bail application by the same accused or in the same case must be placed for disposal before the same Single Judge/Division Bench of the High Court which had dealt with the first bail application.

(3) If the learned Single Judge who had dealt with the first bail application is not available and departure from (2) above is unavoidable, the learned Chief Justice concerned may refer the second or subsequent bail application to another learned Single Judge at the Principal Seat or Permanent Benches/Circuit Benches, as the case may be.

(4) Where the first bail application is heard and disposed of by a Division Bench which is not available either at the Principal Seat or the Permanent Benches/Circuit Benches at the time of filing of the second or subsequent bail application then such bail application shall be heard by a Division Bench of which one of the Judges was a Member of the Division Bench which dealt with the first bail application. If none of the Members of the Division Bench which heard the first bail application is available, the learned Chief Justice concerned may assign the subsequent bail application to any appropriate Division Bench at the Principal Seat or the Permanent Benches/Circuit Benches, as the case may be.

(5) Subsequent bail applications shall be filed, heard and disposed of at the Principal Seat or the Permanent Benches/Circuit Benches, as the case may be, where the first bail application was filed and finally disposed of. In the event of non-availability of the learned Single Judge or the learned Member/s of the Division Bench, who had dealt with the earlier bail applications, the office at the Principal Seat shall obtain appropriate orders from the learned Chief Justice and the office at the Permanent Benches/Circuit Benches shall obtain appropriate orders from the learned Chief Justice through fax or on telephone for fixation of subsequent bail application before other appropriate Benches, in the interest of expeditious and inexpensive dispensation of justice in bail matters.

(6) Subsequent bail application shall not be entertained unless accompanied by copies of earlier bail applications and copies of orders thereon."

The above mentioned principles of practice and propriety laid down by this Court from time to time have consistently been followed by the courts in the country ever since. A later case in the same thread was the case of *Ali Sheharyar v. The State* (2008 SCMR 1448).

10. The echo or resonance of the principles of propriety and practice enunciated by this Court in the above mentioned cases was also heard in India and in the case of *Shahzad Hasan Khan v. Ishtiaq Hasan Khan and another* (AIR 1987 SC 1613) the Supreme Court of India had observed as follows:

> "Long standing convention and judicial discipline required that respondent's bail application should have been placed before Justice Kamleshwar Nath who had passed earlier orders, who was available as Vacation Judge. The convention that subsequent bail application should be placed before the same Judge who may have passed earlier orders has its roots in principle. It prevents abuse of process of court in as much as an impression is not created that a litigant is shunning or selecting a court depending on whether the court is to his liking or not, and is encouraged to file successive applications without any new factor having cropped up. If successive bail applications on the same subject are permitted to be disposed of by different judges there would be conflicting orders and a litigant would be pestering every judge till he gets an order to his liking resulting in the creditability of the court and the confidence of the other side being put in issue and there would be wastage of courts' time. Judicial discipline requires that such matter must be placed before the same judge, if he is available for orders. Since Justice Kamleshwar Nath was sitting in Court on June 23, 1986 the respondent's bail application should have been placed before him for orders. Justice D. S. Bajpai should have respected his own order dated June 3, 1986 and that order ought not to have been recalled, without the confidence of the parties in the judicial process being rudely shaken."

Later on in the case of *State of Maharashtra v. Captain Buddhikota Subha Rao* (1990 PSC 797) the Supreme Court of India had made somewhat similar observations in the following words:

> "In the present case the successive bail applications preferred by the respondent were rejected on merits having regard to the gravity of the offence alleged to have been committed. One such application No. 36 of 1989 was rejected by Suresh, J. himself. Undeterred the respondent went on preferring successive applications for bail. All such pending bail applications were rejected by Puranik, J. by a common order on 6th June, 1989. Unfortunately, Puranik, J. was not aware of the pendency of yet another bail application No. 995/89 otherwise he would have

> disposed it of by the very same common order. Before the ink was dry on Puranik, J.'s order, it was upturned by the impugned order. It is not as if the court passing the impugned order was not aware of the decision of Puranik, J., in fact there is a reference to the same in the impugned order. Could this be done in the absence of new facts and changed circumstances? What is important to realize is that in Criminal Application No. 375 of 1989, the respondent had made an identical request as is obvious from one of the prayers (extracted earlier) made therein. Once that application was rejected there was no question of granting a similar prayer. That is virtually overruling the earlier decision without there being a change in the fact-situation. And, when we speak of change, we mean a substantial one which has a direct impact on the earlier decision and not merely cosmetic changes which are of little or no consequence. Between the two orders there was a gap of only two days and it is nobody's case that during these two days drastic changes had taken place necessitating the release of the respondent on bail. Judicial discipline, propriety and comity demanded that the impugned order should not have been passed reversing all earlier orders including the one rendered by Puranik, J. only a couple of days before, in the absence of any substantial change in the fact-situation. In such cases it is necessary to act with restraint and circumspection so that the process of the Court is not abused by a litigant and an impression does not gain ground that the litigant has either successfully avoided one Judge or selected another to secure an order which had hitherto eluded him. In such a situation the proper course, we think, is to direct that the matter be placed before the same learned Judge who disposed of the earlier applications. Such a practice or convention would prevent abuse of the process of court inasmuch as it will prevent an impression being created that a litigant is avoiding or selecting a court to secure an order to his liking. Such a practice would also discourage the filing of successive bail applications without change of circumstances. Such a practice if adopted would be conducive to judicial discipline and would also save the Court's time as a Judge familiar with the facts would be able to dispose of the subsequent application with despatch. It will also result in consistency. In this view that we take we are fortified by the observations of this Court in paragraph 5 of the judgment in Shahzad Hasan Khan v. Ishtiaq Hasan Khan [1987] 2 SCC 684. For the above reasons we are of the view that there was no justification for passing the impugned order in the absence of a substantial change in the fact-situation. That is what prompted Shetty, J. to describe the impugned order as 'a bit out of the ordinary'. Judicial restraint demands that we say no more."

11. The discussion made above shows that for suspending the sentence of Nazir Ahmed petitioner and admitting him to bail during the pendency of his appeal on the basis of the grounds which could not have been urged or entertained through his third application for the same relief the learned Judge-in-Chamber of the Lahore High Court, Lahore had failed to follow or had chosen to disregard or trump the well-established principles enunciated by this Court governing successive applications for bail which principles were binding on him by virtue of the provisions of Article

189 of the Constitution. In this view of the matter cancellation of Nazir Ahmed petitioner's bail by this Court through the judgment under review hardly warrants any reconsideration or review.

12. Through his review petition and also through Criminal Miscellaneous Application No. 23 of 2014 filed in his review petition Mr. Justice Sayyed Mazahar Ali Akbar Naqvi petitioner has, however, maintained that the principles governing successive applications for bail enunciated in the precedent cases referred to above were not applicable to a situation where an earlier application for bail had been dismissed as having been withdrawn and in such a situation a subsequent application for bail could be entertained and decided on its merits even on the basis of the same grounds which were available and had been urged before dismissal of the earlier application as having been withdrawn. In view of such stance having been taken before us the third issue relevant to the present review petitions is as to whether dismissal of Nazir Ahmed petitioner's second application for suspension of sentence and release on bail by the learned Judge-in-Chamber of the Lahore High Court, Lahore as having been withdrawn after his learned counsel had unsuccessfully addressed arguments in support of that application foreclosed any possibility of obtaining a favourable order in that regard from the same Court through the petitioner's third application when the third application was based upon the same facts and grounds which were available and urged at the time of decision of his second application. In other words, the question is as to whether for the purposes of a subsequent application for bail on the basis of the same facts and grounds dismissal of an earlier application for bail as having been withdrawn after addressing arguments and failing to convince the court has the same legal effect and consequence as dismissal of such application on the merits or not. Such a question came up for consideration before this Court, probably for the first time, in the case of *Muhammad Riaz v. The State* (2002 SCMR 184) decided on 18.01.2001 and it was observed in that case as follows:

“The other vital issue was about the scope of the second bail application and the observations of this Court have been reproduced supra. In the instant case, the earlier bail application Criminal Miscellaneous No. 4101-B-2000 was disposed of by a learned Division Bench of the Lahore High Court comprising Mr. Justice Khalil-ur-Rehman Ramday and Mr. Justice Dr. Munir Ahmad Mughal and the order passed therein dated 24-7-2000 reads as under:--

> “Having argued the matter at some length, prays for permission to withdraw this petition. Dismissed as withdrawn."
>
> (Sd.)
> Judges.”

A bare reading of the above order clearly shows that decision on merit was not at all pressed and the counsel in his own wisdom or on the instructions of his client desired to withdraw the first bail application. In such-like cases it cannot be said that the case had been decided on merits, nor it can be asserted that certain grounds were raised but were repelled or had found favour with the learned Judges as the case may be.

The extract from Zubair's case reproduced in the preceding paragraph of this judgment shows that the case had been heard at length and all grounds which were available were pressed because the first bail application was rejected with the observation that: "As far as rest of the petitioners are concerned, no case has been made out for their release on bail". It was further held that it did not mean that the application had not been disposed of on merits and further that it must be assumed that the learned Judge had considered all the pleas or grounds raised by applicant's counsel before him and that the same had not found favour with him. It was further laid down that notion that each contention raised before the Court in a bail application must be dealt with separately or repelled by recording elaborate reason was totally misconceived.

We are therefore, of the view that withdrawal of a bail application would not mean that its disposal was on merits or the ground had been taken into consideration, therefore, in our view there is no bar in moving a second bail application after withdrawal of the first one but inevitably the second bail application should be heard by the same Judge or the Judges who had allowed the withdrawal of the first application. In the present case, the first bail application was allowed to be withdrawn by a learned Division Bench of the Lahore High Court consisting of Mr. Justice Khalil-ur-Rehman Ramday and Mr. Justice Munir Ahmad Mughal but the judgment impugned was delivered by a different Bench comprising Mr. Justice Khalil-ur-Rehman Ramday and Mr. Justice Zafar Pasha Chaudhry. On the touchstone and criteria laid down in Zubair's case in our view the second bail application ought to have been heard by the same learned Bench who had permitted the withdrawal of the earlier bail application.

For the foregoing reasons, we hold that withdrawal of an application simpliciter does not mean that the same was dealt with on merits or on the grounds pressed. However, the situation would be different if the earlier bail application was decided on merits and in such case while deciding the subsequent bail application, of course, the ground which was not urged although

> the same was available would not constitute a fresh ground justifying the filing of second bail application. Secondly, propriety requires that the bail application dismissed in terms or order impugned be heard by the same learned Bench who had earlier allowed the withdrawal of the first bail application. In this view of the matter, we allow this appeal and remand this case to the learned Lahore High Court for re-hearing of the bail application by the same learned Bench who had permitted to withdraw the first application in terms of order dated 24-7-2000."

13. The case of *Muhammad Riaz* (*supra*) was followed by the case of *Ali Hassan v. The State* (2001 SCMR 1047) decided on 01.03.2001 wherein the said issue had been dealt with by this Court in the following manner:

> "5. We have carefully examined the respective contentions as agitated on behalf of the parties. We have gone through the impugned judgment. The controversy revolves around the interpretation of the dictum as laid down in Zubair's case (supra) which has already been interpreted/clarified recently by this Court in Criminal Appeal No. 458 of 2000 (Muhammad Riaz v. The State) and relevant portion whereof is reproduced hereinbelow:--
> ---
> ---
>
> 6. It transpires from the scrutiny of record that Criminal Miscellaneous Appeal No. 4130-B and Criminal Miscellaneous Appeal No. 1803-M of 1999 were not pressed and withdrawn which makes it abundant clear that the same were not disposed of on merits and in view of the interpretation/clarification of Zubair's case (supra) as mentioned hereinabove, Criminal Miscellaneous Appeal No. 75-B of 2000 is not hit by the dictum laid down in Zubair's case (supra). In such view of the matter the appeal is accepted and the impugned order is set aside and case is remanded back to learned Lahore High Court and Criminal Miscellaneous Appeal No. 75-B of 2000 shall be treated as pending and decided in accordance with law and merits after affording proper opportunity of hearing to all concerned."

14. We have gone through the judgments delivered in the cases of *Muhammad Riaz* and *Ali Hassan* (*supra*) quite minutely. The case of *Ali Hassan* had proceeded simply on the basis of what had been held earlier on in the case of *Muhammad Riaz* and, therefore, it is important to understand as to what was the *ratio decidendi* of the case of *Muhammad Riaz*. We find that what was held in the judgment delivered in that case was as under:

> (i) In *Zubair's* case the earlier application for bail had been dismissed on the merits of the case whereas

> in the case of *Muhammad Riaz* the earlier application for bail had been dismissed as having been withdrawn.
>
> (ii) Dismissal of an application for bail as having been withdrawn "simpliciter" is not to be equated with a dismissal on the merits.
>
> (iii) Withdrawal of an application for bail "simpliciter" does not preclude or debar "moving" of another application for bail.
>
> (iv) If the earlier application for bail had been decided on the merits then a subsequent application for bail can be "moved" only on the basis of grounds which were not existing or available till the decision of the earlier application.
>
> (v) In a case of withdrawal of an earlier application for bail and also in a case of its decision on the merits a subsequent application for bail is to be fixed before and heard by the same Judge(s) who had dealt with the earlier application.

We have particularly noticed, and we observe so with profound respect, that in the said judgment no specific comment had been made on as to what constituted withdrawal "simpliciter" and on as to whether there was any difference between withdrawal "simpliciter" and withdrawal after addressing arguments and failing to convince the court on the merits. An indication is, however, available in the said judgment as to what was deemed to be withdrawal "simpliciter" and in this respect the following observation made in the judgment may be referred to:

> "We are therefore, of the view that withdrawal of a bail application would not mean that its disposal was on merits or the ground had been taken into consideration, therefore, in our view there is no bar in moving a second bail application after withdrawal of the first one"
>
> (*underlining has been supplied for emphasis*)

The said observation made in the judgment indicates that filing a subsequent application for bail on the same grounds was held to be permissible where withdrawal of the earlier application was not preceded by consideration of the grounds for bail on their merits. Such understanding of that judgment is fortified by a later observation made in that judgment which reads as under:

> "For the foregoing reasons, we hold that withdrawal of an application simpliciter does not mean that the same was dealt with on merits or on the grounds pressed."
> (*underlining has been supplied for emphasis*)

The above mentioned observations made in that judgment throw some light on what was meant in that judgment by withdrawal "simpliciter" but, with great reverence for the Honourable Judges deciding the said case, we find that exposition of that issue in the said judgment was not the finest example of judicial clarity. We note that on the one hand withdrawal of an application for bail after arguing the matter at some length was held to be withdrawal "simpliciter" and not constituting a bar against filing of another application for the same relief on the basis of the same facts and grounds but on the other hand the above mentioned observations were made which declared that withdrawal "simpliciter" did "not mean that" the application for bail had been "dealt with on merits or on the grounds pressed". The said observations tended to hold that in a case wherein withdrawal of an application for bail had come about after the grounds for bail had been "pressed" and "dealt with" was not a case of withdrawal "simpliciter". After a very careful analysis of what had been held and what had been observed in that judgment and after a cautious and judicious examination and scrutiny of the issue involved we understand that what is reasonably discernable or deducible is that if an application for bail was withdrawn without addressing any argument on the merits of the case then another application for bail on the basis of the same facts and grounds can be filed but if the "merits" and the "grounds pressed" had been "dealt with" by the court before allowing withdrawal of an application for bail or, in other words, an application for bail was withdrawn after addressing arguments on the merits of the case but failing to convince the court then a fresh application can be filed and entertained only on the basis of grounds which were not existing or available till disposition of the earlier application for the same

relief. This was the understanding and the premise upon which the judgment under review in the present case had proceeded.

15. It may not be out of place to mention here that the judgment under review in the present case has already been approvingly referred to and in fact followed by a different 3-member Bench of this Court in the case of *Amir Masih v. The State and another* (2013 SCMR 1059 & 1524) decided on 03.05.2013 and it had been observed in that case as under:

> "5. Learned High Court has dismissed the bail application of the petitioner on the ground that earlier application filed by him was dismissed as withdrawn *vide* order dated 5.12.2012. In the case of *The State through Advocate-General, N.W.F.P. v. Zubair and 4 others* (PLD 1986 SC 173) it was held by this Court that the grounds which were available at the time of withdrawal of the earlier application shall be deemed to have been considered and dealt with and the second application can only be filed on the fresh ground. The relevant portion is reproduced as under:--
>
> > *"8. It might be useful to mention here that the second or the subsequent bail application to the same Court shall lie only on a fresh ground, namely, a ground which did not exist at the time when the first application was made. If a ground was available to the accused at the time when the first bail application was filed and was not taken or was not pressed, it cannot be considered as a fresh and made the basis of any subsequent bail application. We may also point out, with respect to the learned Judge, who dealt with the second bail application that the mere fact that the learned Judge who had rejected the first bail application of the respondents with the observation that as far as the remaining petitioners (the respondents herein) are concerned no case had been made out for their release on bail, does not mean that the application had not been disposed of on merits. It must be assumed that he had considered all the pleas or grounds raised by the applicant's counsel before him and that the same had not found favour with him. It may be pointed out, with great respect that the notion that each contention raised before the Court in a bail application must be dealt with separately or repelled by recording elaborate reasoning, is totally misconceived. We are of the view that in the present, case the learned Judge who dealt with the second bail application had, in fact embarked on a review of the order of the learned Judge who had earlier dismissed the first bail application.*
>
> 6. As far as the case-law cited by the learned counsel for the petitioner in (i) *Ali Hassan v. The State* (2001 SCMR 1047) and (ii) *Muhammad Riaz v. The State* (2002 SCMR 184) is, concerned, the latest case which has been disposed of on this point is

> *Muhammad Siddique v. The State* (Criminal Petition No. 896-L of 2012) wherein it has been held by this Court that if earlier application is dismissed as withdrawn, the second application can only be filed on any fresh ground and not on the same grounds which were available at the time of the disposal of the earlier application. Relevant portion from the said judgment is reproduced herein below:--
>
> > *"In such circumstances it is apparent on the face of record that the ground of similarity of role and rule of consistency was available to the petitioner at the time of filing first application for suspension of sentence but the learned Judge has totally ignored it. From the tenor of impugned order it appears that the learned Judge of the Lahore High Court while suspending the sentence of respondent No. 2 has not exercised discretion in a proper and judicious manner rather has not at all adverted to the guidelines laid down in Zubair's case (supra)."*
>
> Thus the latest view of this Court is to be followed and the learned High Court has rightly dismissed the application which could only be entertained on the fresh grounds, hence, this petition being without merits is, hereby, dismissed and leave is refused."

The judgment under review has also been referred to with approval by another 3-member Bench of this Court in the case of *Muhammad Naveed v. The State and another* (Criminal Petition No. 324-L of 2013 decided on 03.05.2013) in the following terms:

> "Even this Court in a recent judgment passed in Criminal Petition No. 896-L of 2012 titled Muhammad Siddique v. The State has held that even if the application is dismissed as withdrawn, subsequent application is not entertainable until and unless any fresh ground is urged."

16. We have also noticed that the understanding of the meanings of withdrawal "simpliciter" propounded above already stands expressed and iterated by this Court in the case of *Rizwan Ali v. The State, etc.* (Criminal Petition No. 658-L of 2013 decided on 16.07.2013) as follows:

> "We have heard the learned counsel for the petitioner, the learned Additional Prosecutor-General, Punjab appearing for the State and Saleem Akhtar complainant in person and have gone through the record of this case with their assistance. It has been agreed between the learned counsel for the petitioner, the learned Additional Prosecutor-General, Punjab and the complainant appearing in person that the principle laid down by this Court in the case of *Muhammad Siddique v. The State* (Criminal Petition No. 896-L of 2012) and in the case of *Amir Masih v. The State and*

> *another* (2013 SCMR 1059) has not been correctly applied by the learned Judge-in-Chamber of the Lahore High Court, Multan Bench, Multan to the facts of the present case *vis-à-vis* the present petitioner namely Rizwan Ali. On the basis of such consensus all of them have requested that this petition may be converted into an appeal and the same may be allowed, the impugned order passed by the Lahore High Court, Multan Bench, Multan on 19.06.2013 may be set aside and the matter of the petitioner's bail may be remanded to the Lahore High Court, Multan Bench, Multan for its decision afresh on the merits of the case. In the peculiar circumstances of the case we have found the consensus between the parties to be justified because the merits of the petitioner's case for bail had never been attended to by the Lahore High Court, Multan Bench, Multan in the orders passed by it in all the three successive applications filed by the petitioner for the said relief and every time such application was allowed to be withdrawn the withdrawal so sought and allowed was nothing but withdrawal simpliciter. This petition is, therefore, converted into an appeal and the same is allowed, the impugned order passed by the Lahore High Court, Multan Bench, Multan on 19.06.2013 is set aside, Criminal Miscellaneous No. 2084-B of 2013 shall be deemed to be pending before the said Court and the same shall be decided afresh after attending to the merits of the petitioner's case for bail."
>
> (*underlining has been supplied for emphasis*)

In the said case of *Rizwan Ali* all the earlier applications for bail filed by an accused person had been dismissed by the Lahore High Court, Multan Bench, Multan as having been withdrawn without any argument having been addressed or heard on the merits of the case and, therefore, this Court had treated the earlier withdrawals as withdrawal "simpliciter". The approach adopted in that case was expressly followed by this Court in the later case of *Umar Hayat v. The State, etc.* (Criminal Petition No. 786-L of 2013 decided on 31.07.2013) as under:

> "The situation in the present case is almost identical to that in the case of *Rizwan Ali v. The State, etc.* (Criminal Petition No. 658-L of 2013 decided on 16.07.2013) and, thus, we are minded to pass an order in the present petition similar to that passed in the case of *Rizwan Ali (supra)* and the learned counsel for the parties have also agreed on that course to be adopted. This petition is, therefore, converted into an appeal and the same is allowed, the impugned order passed by the Lahore High Court, Lahore on 02.07.2013 in Criminal Miscellaneous No. 3987-B of 2013 is set aside, the said criminal miscellaneous petition shall be deemed to be pending before the said Court and the same shall be decided afresh after attending to the merits of the petitioner's case for bail."

17. With great regard and respect for the Honourable Judges of this Court deciding the cases of *Muhammad Riaz* and *Ali Hassan*

(*supra*) we have observed that it had never been considered in the judgments passed in the said cases that if a Judge had allowed a counsel to withdraw an application for bail after the counsel had addressed arguments on the merits of the case and had remained unable to convince the court in that regard then even if such withdrawal of the application for bail is to be deemed as withdrawal "simpliciter" still on the basis of the same set of facts and on the basis of the same grounds urged through a subsequent application for bail the Judge concerned cannot take a view and reach a conclusion different from that taken or reached by him in the earlier round and that if the Judge concerned takes a different view and reaches a different conclusion in the subsequent round then he may inevitably invite many allegations including those of inconsistency or extraneous influence which may impinge upon his competence or integrity. This aspect of the issue had specifically been adverted to by this Court in the landmark case of *The State through Advocate-General, N.W.F.P. v. Zubair and 4 others* (PLD 1986 SC 173) referred to by us earlier on in this judgment. It had been observed by this Court in that case that permitting such a course to be adopted may open doors for conflicting judgments and encouraging malpractices which may bring the judicial system into disrepute by creating an impression that the subsequent favourable orders were based upon extraneous considerations. It had also been observed in that case that a subsequent favourable order in the same case on the basis of the same set of facts may be perceived as reviewing an earlier unfavourable order which may not be permissible in law. To us even a possibility of creating an impression in respect of extraneous considerations may speak volumes against permitting such a course to be adopted. We may add that the case in hand itself is a case in point as the learned Judge-in-Chamber of the Lahore High Court, Lahore had dismissed Nazir Ahmed petitioner's second application for suspension of sentence and release on bail as having been withdrawn after the learned counsel for the petitioner had addressed arguments on the merits but had failed to convince the leaned Judge-in-Chamber for grant of the desired relief but

through his third application filed through a different learned counsel for the same relief and based upon the same facts and grounds the desired relief had been extended to Nazir Ahmed petitioner by the same learned Judge-in-Chamber. Such inconsistency of approach adopted by the learned Judge-in-Chamber had prompted, *nay* compelled, this Court to record some observations in the judgment under review concerning the conduct of the learned Judge-in-Chamber expunction of which observations is sought by him through one of the review petitions under consideration. We may add that we have particularly noticed with interest that in the cases of *Muhammad Riaz* and *Ali Hassan* (*supra*) it had only been observed by this Court that after withdrawal "simpliciter" of an earlier application for bail another application for the same relief can be "moved" but it had never been observed therein that the same Judge can be inconsistent and can take a different view or reach a conclusion different from the one reached by him on the same set of facts and on the same grounds in the earlier round.

18. This brings us to the last issue as to whether the observations made by this Court in the judgment under review concerning the conduct of Sayyed Mazahar Ali Akbar Naqvi, J. were justified in the circumstances of the case. We may observe at the outset that it is quite unpleasant to discuss the conduct of a Judge of the superior judiciary through a judgment but we are compelled to undertake such an exercise in this case because it is none other than a Judge of a High Court himself who has formally approached this Court and has insisted that we may comment upon some comments already made by this Court about his conduct.

19. It may be clarified straightaway that Nazir Ahmed petitioner's bail had been cancelled by this Court because the facts of the case did not justify suspension of his sentence and release on bail during the pendency of his appeal and the law had not been correctly applied to his case by the Lahore High Court,

Lahore. A bare perusal of paragraph No. 8 of the judgment under review shows, and shows quite clearly, that the observations made therein regarding the learned Judge had not been made with reference to his wrong decision on the law and facts of the case but the observations were based squarely upon his inconsistency in the matter which inconsistency, unfortunately, created an impression regarding an extraneous consideration coming into play. For facility of reference the said paragraph of the judgment under review is reproduced below:

> "8. Before parting with this order we may observe that discretion exercised by the learned Judge while passing the impugned order in the instant case has appeared to us to be somewhat colourable because after dismissal of second application for suspension of sentence bearing the same ground the only difference in the respondent's third application for the same relief was a different learned counsel for that respondent."

In this view of the matter the stance of the learned Judge and his learned counsel before us that the learned Judge had entertained and decided the third application for suspension of sentence and release on bail filed by Nazir Ahmed petitioner in the light of the law declared by this Court in the cases of *Muhammad Riaz* and *Ali Hassan* (*supra*) has appeared to us to be a stance which completely misses the point in issue. The issue fairly and squarely was inconsistency creating an impression of extraneous consideration and not correct application of the law or otherwise.

20. We note that in the case of *Noraz Akbar v. The State and another* (2011 P.Cr.L.J. 852) decided by Sayyed Mazahar Ali Akbar Naqvi, J. on 29.11.2010 it had been held by him as under:

> "4. At the outset learned counsel for the petitioner when questioned that what is fresh ground available with the petitioner as his earlier such bail application already stands dismissed, learned counsel states that the earlier bail application was not dismissed on merits and the instant application is to be considered as his first bail petition. To substantiate his version, learned counsel for the petitioner has placed reliance on Muhammad Riaz v. The State (2002 SCMR 184).
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> 7. Firstly I dilate upon the question that whether the instant

> bail petition being second petition on the subject, can be given weight in absence of any fresh ground, which is pre-requisite for filing such petition. There is no cavil to this proposition that there is no fresh ground available with the petitioner and the grounds taken herein were already available with the petitioner at the time of filing of first bail petition. Therefore, the same is not maintainable in view of ratio decidendi of august Supreme Court of Pakistan in the case of Gul Nawaz alias Gul Mowaz and 2 others v. The State (1970 SCMR 667) wherein Mr. Justice Hamoodur Rahman, the then Hon'ble Chief Justice, being author of the order had held as under;
>
> > "The High Court was in our view also right in holding that repeated applications for bail on the same facts did not lie in the High Court."
>
> 8. Now question arises that whether the instant petition can be termed as second bail petition or the first one. Having much regard for the case law cited by learned counsel for the petitioner, I may submit here that bare perusal of the order dated 4-11-2010, passed in Criminal Miscellaneous No. 11712-B of 2010, whereby the petitioner's earlier bail petition was dismissed, reflects that after arguing the case at some length, learned counsel for the petitioner requested to withdraw the petition, which in the interest of justice was allowed. Had the petitioner very good case, learned counsel for the petitioner might have not withdrawn the same after arguing at some length."
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> (*underlining has been supplied for emphasis*)

It is quite noticeable that the case of *Muhammad Riaz* (*supra*) had been taken notice of by Sayyed Mazahar Ali Akbar Naqvi, J. in the said order dated 29.11.2010 but still while dealing with the subsequent application for bail he had refused to take a view or reach a conclusion different from that taken or reached by him in the earlier round because the facts of the case and the grounds for bail had not undergone any change. The said order further shows that according to the reported, and therefore considered, view of Sayyed Mazahar Ali Akbar Naqvi, J. dismissal of an earlier application for bail as having been withdrawn after arguments had been addressed in support of such application at some length clearly indicated that the Judge concerned did not feel persuaded to grant bail on the facts disclosed and the grounds urged and, thus, the counsel for the accused person requested for withdrawal of the application which request was acceded to by the Judge. As the facts of that reported case had not undergone any material change and no fresh ground had become available to the accused person in that case for his subsequent application for bail, therefore, Sayyed Mazahar Ali Akbar Naqvi, J. did not want to be

inconsistent in the matter in that case. It is unfortunate that in the present case the same learned Judge had decided to proceed otherwise and that had allowed many an eyebrow to be raised.

21. Another aspect of this matter, equally disturbing, is that if the facts of the case and the grounds available to Nazir Ahmed petitioner for suspension of his sentence and release on bail during the pendency of his appeal were the same at the time of applying for such relief through his second and third applications then if such facts and grounds were valid and sufficient for granting the desired relief on the third occasion then the said relief ought not to have been denied to him by the same learned Judge on the second occasion. This implies that either a due relief was denied to the said petitioner on the second occasion or an undue relief was extended to him on the third occasion. In this backdrop engaging the services of a different learned counsel by Nazir Ahmed petitioner for his third attempt for the same relief on the same facts and grounds and the said learned counsel's crowning with success in that attempt was a matter which ostensibly provided fodder to an impression about an extraneous consideration coming into play and the same seemingly reflected adversely upon the learned Judge's conduct. The principles of consistency and propriety demanded that if the facts and the grounds were the same and they were valid and sufficient for granting the desired relief then the learned Judge ought to have allowed Nazir Ahmed petitioner's second application and if the said relief was not due on the same facts and grounds then the learned Judge ought to have been consistent and he should have dismissed the third application as well. In these peculiar circumstances of the case this Court could reasonably entertain an impression that the exercise of discretion in the matter by the learned Judge was "somewhat colourable".

22. There is yet another aspect of this matter which is also quite disconcerting. Through Criminal Miscellaneous Application No. 23 of 2014 filed by him in his review petition Mr. Justice Sayyed

Mazahar Ali Akbar Naqvi petitioner has himself brought on the record of this case copies of seven other orders passed by him wherein after dismissing the earlier applications for bail filed by some accused persons as having been withdrawn after having heard the arguments of the accused persons' learned counsel at some length on the merits of the case he had allowed bail to the same accused persons through their subsequent applications for the same relief filed on the basis of the same facts and grounds within a few weeks or months of dismissal of the earlier applications. This surely reflects or depicts a conscious pattern being followed by the learned Judge which is a pattern which cannot be approved. It shows that in the first round the learned Judge refuses the desired relief to an accused person but in the second round the same facts and grounds are found to be valid and sufficient for the same relief. Unfortunately the said pattern also fits into the facts and circumstances of the present case. We must admit that we are at a loss to understand why such a pattern is being followed by the learned Judge and what can be the factual or legal justification for adopting such a pattern.

23. It is important to mention here that in the judgment under review this Court had been particularly careful and had deliberately stopped short of naming therein the learned Judge-in-Chamber of the Lahore High Court, Lahore or the learned counsel for Nazir Ahmed petitioner appearing before the said Court in connection with that petitioner's third application for suspension of sentence and release on bail and the judgment under review had not even been approved for reporting. All that care had been taken by this Court only to save the learned Judge-in-Chamber and the concerned learned counsel from any embarrassment that may be caused to them by naming them in the judgment. In that backdrop there was hardly any occasion for issuing notice to the learned Judge-in-Chamber or the learned counsel before recording the observations made in paragraph No. 8 of the judgment under review because that would have ensured their embarrassment which this Court deliberately wanted to avoid. Apart from that we

have heard the learned counsel for Mr. Justice Sayyed Mazahar Ali Akbar Naqvi petitioner and Mr. Bhoon at some length in connection with the present review petitions and such subsequent hearing neutralizes the effects of any previous omission in hearing them.

24. For what has been discussed above both the captioned review petitions are dismissed. Nazir Ahmed petitioner may be arrested forthwith and be lodged in the jail from which he had been released so as to serve the sentence passed against him by the learned trial court. He may, however, approach the Lahore High Court, Lahore for any relief if and when any ground for such relief accrues to him under the law.

25. Before parting with this judgment we would like to, for the benefit of all concerned, restate the principles of propriety and practice enunciated by this Court thus far regarding filing, entertaining and deciding applications for bail, cancellation of bail or suspension of sentence and release on bail during the pendency of an appeal in criminal cases and would expect all the courts below to scrupulously and meticulously adhere to and follow the same. The said principles, as enunciated in the precedent cases referred to above and some others, are as follows:

> *(Note: A reference here to an application for bail may be read as a reference to all applications for bail, cancellation of bail or suspension of sentence and release on bail during the pendency of an appeal in the same criminal case or its cross-case filed by the same accused person, any other accused person, the State or the complainant party.)*
>
> (i) At the bottom of every application for bail it is obligatory to attach a certificate regarding non-filing of any such application before the same court previously and, in case of a repeated or successive application, a certificate disclosing filing of any such application previously by the same accused person, any other accused person, the State or the complainant party before the same court in the same criminal case or its cross-case and such certificate must also disclose the

number of the previous application, the date of its decision and the name of the Judge dealing with and deciding the same. No subsequent bail application is to be entertained unless the same is accompanied by copies of the earlier bail applications and copies of the orders passed thereon.

(ii) All repeated or successive applications for bail must be fixed for hearing before and heard and decided by the same Judge(s) who had dealt with and decided any earlier application for bail unless the Judge or one or some of the Judges dealing with and deciding the earlier application(s) is/are not available at the relevant station of posting/Principal Seat/Bench.

(iii) Dismissal of an application for bail after attending to the merits of the case amounts to rejection of all the grounds available or in existence till the time of such dismissal whether such grounds were actually taken or urged or not and whether such grounds were expressly dealt with in the order of dismissal or not.

(iv) In case of dismissal of an earlier application for bail on the merits of the case a subsequent application for the same relief can be filed and entertained only if it is based upon a fresh ground, i.e. a ground which was not available or in existence at the time of decision of the earlier application.

(v) Withdrawal simpliciter of an earlier application for bail before addressing or hearing of any argument on the merits of the case does not preclude filing of a subsequent application for the same relief before the same court and its decision by such court on the merits of the case. In all cases of withdrawal of such an application the court must faithfully record in its order as to whether withdrawal of the application had been requested and allowed after addressing and hearing of some or all the arguments on the merits of the case or withdrawal of the application had been requested and allowed before addressing and hearing of any argument on the merits of the case.

(vi) In a case of withdrawal of an earlier application for bail after addressing and hearing of some or all the arguments on the merits of the case no subsequent application for the same relief can be filed before or entertained by the same court unless such subsequent application is based upon a fresh ground, i.e. a ground which was not available or in existence at the time of disposition of the earlier application.

26. The Office is directed to send a copy of this judgment to the Registrars of all the High Courts in the country who are directed to ensure that every Judge and Magistrate dealing with criminal cases within the jurisdiction of each High Court receives a copy of this judgment and complies with the principles of practice and propriety enunciated or recapitulated herein.

Judge

Judge

Judge

Announced in open Court at Islamabad on 22.01.2014

Judge

Islamabad
22.01.2014

Approved for reporting.

Arif