

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

Crl. Misc. No.848-BC-2018

Muhammad Ashraf

V.

The State etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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04.03.2020

Raja Faisal Younas, Advocate for petitioner.
Raja Mazhar Hussain Bhatti, Advocate for
respondents.
Malik Awais Haider, State Counsel with
Sher Muhammad, SI.

Through the instant petition, the petitioner namely Muhammad Ashraf, who is complainant of case FIR No.190 dated 12.09.2019 offence under section 506(ii), 148, 149 PPC registered with P.S. Bani Gala, Islamabad, seeks cancellation of bail granted to respondents No.3 to 8.

2. The facts, leading to filing of instant petition, are that on the complaint of petitioner, above mentioned FIR was registered, wherein it was alleged that respondents along with others, committed various acts which amounted to offences under sections 506(ii), 148, 149 PPC. Respondents Nos.3 to 8 applied for bail before arrest which was allowed vide order dated 12.10.2018 by learned Additional Sessions Judge, Islamabad-West.

3. Learned counsel for the petitioner, *inter alia*, contended that bare reading of FIR shows that various acts were committed by

the respondents over a period of time which led to lodging of complaint which culminated into FIR in question. It was submitted that in light of case law reported as “Tariq Bashir & 5-others Vs. The State’ (PLD 1995 SC 34), where there is apprehension of repetition of offence, bail should be recalled. It is submitted that similar observations find mentioned in case reported as ‘Haji Jahan Khan Vs. The State and another’ (1998 SD 110). It was submitted that respondents are continuing with commission of offences in order to grab land of petitioner and in this behalf, even subsequent FIR was also lodged.

4. Learned counsel for respondents No.3 to 8, *inter alia*, contended that it is trite law that principles for grant of bail are different from cancellation. It was submitted that settled principles for cancellation of bail as propounded by the superior courts are not attracted in the facts and circumstances of instant case. It was further submitted that dispute, as such, is civil in nature, for which, litigation is pending between the parties. It was further contended that subsequently another FIR was lodged, wherein respondents No.3 to 8 even were sent behind the bars and now are on bail.

5. Learned State Counsel apprised the Court that report under section 173 Cr.P.C. has been filed and trial has commenced inasmuch as charge has been framed.

6. Arguments advanced by learned counsels for the parties have been heard and

the documents, placed on record, examined with their able assistance.

7. It is trite law that principles for grant of bail are different from cancellation. None of the established grounds for cancellation of bail granted to respondents No.3 to 8 are attracted in the facts and circumstances of instant case inasmuch as there is no allegation to the effect that respondents No.3 to 8 have absconded, are tampering with evidence in any manner or hampering the progress of trial.

8. Though there is another FIR registered by the petitioner against respondents No.3 to 8 however it does not amount to repetition of same offence.

9. Report under section 173 Cr.P.C. has been filed and trial has commenced hence at this stage, there is no justification or basis for cancellation of bail granted to respondents No.3 to 8.

10. The order impugned passed by learned Additional Sessions Judge, Islamabad-West is well reasoned and by no stretch of imagination, can be regarded as perverse.

11. For what has been stated above, instant petition is without merit and is accordingly dismissed.

(AAMER FAROOQ)
JUDGE

Zawar