

ISLAMABAD HIGH COURT
ISLAMABAD

Crl. Misc. No. 2082-BC of 2010.
Raja Shahid Ahmed
Versus
Nisar Afzal etc

S.No. of order / Proceeding	Date of order/ proceeding	Order with signature of Judge, and that of parties or counsel, where necessary.
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24-02-2011 **Mr. Muhammad Ilyas Siddiqui, learned counsel for the petitioner / complainant.**
Sardar Shabbir Hussain, learned counsel for respondent No.1 / accused.
Respondent No.1 / accused in person.
Raja Muhammad Yasin learned Standing Counsel.
Mr. Sajid Rafique ASI with record.

Nisar Afzal respondent / accused herein was charged in case FIR No.285 dated 06-08-2010, registered u/S 324, 337-F(i), 337-F(ii)/34 PPC P.S. Industrial Area, District Islamabad.

2. Report was lodged by petitioner / complainant Raja Shahid Ahmad, wherein he alleged that on 06-08-2010 at about 09:15 p.m. he left his Adha "Raja Travels" situated at Faiz Abad. He alongwith his driver namely Ghufraan was in car and on the rear seat one Waseem was sitting. The moment vehicle took a turn from the stand and reached at House No.105, two persons appeared there. He recognized them, out of them one was Israr Afzal and other was Nisar Afzal. Nisar Afzal was having 30 bore pistol. Nisar Afzal made a Lalkara and started firing, as a result of which he was hit ~~on~~ left side of his chest. The second person also started firing which hit ~~on~~ the vehicle due to which driver got injured. Thereafter, both the accused persons ran away, the police present on the check post took the complainant and injured to

hospital, so the instant report was lodged. Both the accused were arrested, however they ^{were} released on bail by the learned Judicial Magistrate Section-30, Islamabad vide order dated 21-08-2010. The petitioner / complainant moved an application for cancellation of bail of present respondent / accused namely Nisar Afzal but the learned Sessions Judge, Islamabad vide order dated 27-09-2010, dismissed the same. Hence, present petition for cancellation of bail.

3. Learned counsel for the petitioner / complainant submitted that the bail was granted by the learned Judicial Magistrate Section-30, Islamabad on the basis of plea of alibi, which could not be considered as a valid reason for releasing respondent / accused on bail. Learned counsel further contended that the petitioner / complainant himself was injured and he has recognized the respondent / accused and in such like circumstances, respondent / accused could not be released on bail.

4. On the other hand, learned counsel for the respondent / accused contended that the bail order was proper and in accordance with law. Furthermore, the concession of bail has not been misused by the respondent / accused and no valid reason has been put forward for cancellation of bail.

5. I have heard the learned counsel for the parties and have also perused the record.

6. The principles for cancellation of bail are totally different from the principles for grant of bail. In the instant case, the record shows that two inquiries were

conducted and in both these inquiries the accused were found innocent. In addition to that the police had also found that the plea of alibi put forward by the respondent was genuine. Without commenting upon the plea taken by the respondent / accused, it is important to mention here that at bail stage only tentative assessment can be made and deeper appreciation of evidence is not possible, however it cannot be said that discretion regarding grant of bail was not properly exercised. The impugned order is neither perverse nor arbitrary. There is no evidence that the respondent / accused has misused the concession of bail, there are no chances of abscondance of the respondent / accused and the respondent / accused is not in a position to temper with the evidence of the prosecution, if any. In these circumstances, the instant petition for cancellation of bail has no force; hence the same is hereby **dismissed.**

(RIAZ AHMED KHAN)
JUDGE

Asad K/*.

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