

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD. **JUDICIAL DEPARTMENT.**

Criminal Revision No. 104/2019

Sadaqat Hussain Abbasi

Versus

Mst. Akhbab Jan, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
(03)	20.01.2020	Mr. Muhammad Jamil Malik, Advocate alongwith petitioner. Mr. Zohaib Hassan Gondal, State Counsel. Sarfraz Ahmed, S.I. with record.

Through this Criminal Revision, petitioner (Sadaqat Hussain Abbasi) has assailed the order dated 08.03.2019, passed by the learned Additional Sessions Judge-III (East), Islamabad, whereby bail granted to him vide order dated 30.08.2018, was recalled on the ground that he did not regularly appear before the learned Trial Court and even on the said date failed to appear, which fact suggested that he has misused the concession of bail.

2. Briefly stated facts of the prosecution case are that on 03.03.2018, Mst. Ahbab Jan widow of Muhammad Zaheer, lodged F.I.R. No. 104/2018, offence under Section 365 P.P.C., registered at Police Station Koral, Islamabad, with the averments that son of complainant namely Pervaiz Akhtar, aged about 37/38 years was missing for last three (03) days, they themselves searched for him, but all in vain. It was alleged that brother-in-laws of her son, namely Sadaqat Hussain Abbasi and Shaukat Hussain both sons of Ashiq Hussain were having some dispute over an issue and the

matter was in consideration before the Court on 01.03.2018, but before that the abductee was missing, who had already been extended threats of dire consequences, therefore, the complainant alleged that there was apprehension of abduction of her son by the accused/petitioner. On such report, investigation was carried out. The petitioner in the first instance, filed pre-arrest bail application before the learned Additional Sessions Judge-III (East), Islamabad, alongwith an affidavit of the alleged abductee, namely Pervaiz Akhtar Abbasi, mentioning therein that they have patched up the matter and have entered into a compromise on the basis whereof, interim bail granted to the petitioner was confirmed vide order dated 30.08.2018.

3. After usual investigation, on 07.02.2019, challan was submitted before the learned Trial Court i.e. learned Judicial Magistrate, Sec-30 (East), Islamabad. On six dates of hearing i.e. 21.03.2019, 08.05.2019, 03.07.2019, 23.09.2019, 11.11.2019 & 07.01.2020, the accused/petitioner remained absent, resultantly, his son non-bailable warrants of arrest were issued.

4. The complainant filed application for cancellation of bail, granted to the petitioner as well as his co-accused by the learned Additional Sessions Judge-III (East), Islamabad, where the petitioner remained absent. Notices were issued to him whereupon the process server submitted his report. According to the report of Process Server dated 24.02.2019, the petitioner/accused has proceeded to Dubai. On the other hand, learned counsel of co-accused appeared and contested the

petition. The relevant portion of the impugned order is as follows:-

"2. Learned counsel for the respondents No. 1 & 2/accused opposed the contention of learned counsel for the petitioner and stated that the respondents No. 1&2/accused admitted on the basis of compromise. Further neither the respondents No.1&2 have misused the concession of bail nor they committed any act which are warranted under Section 497 Cr.P.C. for cancellation of bail, therefore, the application for cancellation of bail is liable to be dismissed.

3. Arguments heard, record perused.

4. Scan on case record revealed that the petitioner seeks cancellation of bail granted to the respondents/accused on the grounds that petitioner has specifically nominated in the FIR which corroborates with investigation; that bail of the respondents confirmed on the basis of compromise statement not given by the complainant rather by one namely Pervaiz Akhtar Abbasi.

5. Perusal of the record reveals that respondents/accused persons after granting bail granting are not appearing regularly the before the learned Trial Court. Even today the respondents failed to appear before the court. The record further suggested that the accused persons had misused the concession of bail granted to them."

5. Learned counsel for the petitioner contended that the learned Trial Court, while cancelling the bail, failed to take into account that non appearance of the petitioner was not deliberate for the reason that he was out of country; that he has not misused the concession of bail; that the bail was granted in his favour on the basis of compromise effected between the parties.

6. Learned counsel for the petitioner further states/contends that the copy of the passport and ticket shows that the petitioner was out of country, therefore, could not attend the hearing before the Court.

7. Learned State Counsel vehemently opposed the contentions of the learned counsel for the petitioner and contended that the petitioner severely applied for bail before arrest and then remained absent; that the challan has already been submitted, but due to continuous absence of the petitioner, no proceedings could be held in the matter; that so called affidavit filed by the petitioner misled the Court in granting bail in his favour, was the result of fraud.

8. Arguments heard, record perused with the able assistance of the learned counsel for the parties.

9. Perusal of the record reveals that the petitioner and his brother were granted pre-arrest bail merely on the ground that the petitioner has patched up the matter with the complainant and his son being his close relatives. After submission of challan, the petitioner without permission of the learned Trial Court proceeded to Dubai and knowingly did not appear before the learned Trial Court. The continuous absence of the petitioner seems to be intentional, which tantamount to violation of concession of bail. The learned Additional Sessions Judge-III (West), Islamabad, has rightly cancelled the bail of the petitioner. The petitioner has willfully misused the concession of bail, non-bailable warrants of arrest against the petitioner has already been issued vide order dated 03.07.2019.

10. The contention of the learned counsel for the petitioner and perusal of contents of passport and ticket further proved that the petitioner went abroad after grant of bail without permission of the Court.

11. In view of above, I have found no irregularity or illegality in the impugned order dated 08.03.2019, passed by the learned Additional Sessions Judge-III (West), Islamabad, warranting interference by this Court. The instant Criminal Revision petition, having no merits is hereby **dismissed**.

(GHULAM AZAM QAMBRANI)
JUDGE

A. Rahman Abbasi