

## ORDER SHEET.

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

**Criminal Misc. No. 341/BC/2019.**

Muhammad Luqman Kamil

Versus

Malik Gull Muhammad Lakhani, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	27.05.2019.	Mr. Ahmad Nawaz Bhatti, Advocate for petitioner.

Through this Crl. Misc. petition, the petitioner has prayed for cancellation of post-arrest bail granted to respondent No.1 vide order dated 26.04.2019, passed by learned Sessions Judge (West), Islamabad, in case FIR No.100, dated 26.03.2019, U/S 489-F PPC, P.S. Kohsar, Islamabad.

2. Learned counsel for the petitioner contends that respondent No.1 has committed fraud by giving post dated cheque which was dishonoured on its presentation and as such amount paid by the petitioner has not been returned and respondent No.1 is misusing the concession of bail; that order dated 26.04.2019 is perverse, illegal and fanciful, which is liable to be struck down.

3. Arguments heard, record perused.

4. Perusal of record reveals that respondent No.1 is accused in case FIR No.100, dated 26.03.2019, U/S 489-F PPC, P.S. Kohsar, Islamabad, whereby complainant/ petitioner has leveled the allegation that respondent

No.1 is liable to pay Rs.5 Crore to him and cheque which issued by respondent No.1 has been dishonoured on its presentation. Learned Sessions Judge (West), Islamabad has considered all the aspects and while relying upon PLD 2014 SC 458 (Muhammad Shakil Vs. The State), PLD 1995 SC 34 (Tariq Bashir Vs. The State) and PLD 2017 SC 733 (Muhammad Tanvir Vs. The State and another) accepted the post-arrest bail application of respondent No.1.

5. The offence U/S 489-F PPC does not fall within the prohibitory clause of Section 497 Cr.P.C. Even otherwise, petitioner was released on post-arrest bail.

6. I have confronted learned counsel for the petitioner to justify through any document in which petitioner has paid the amount of Rs.5 Crore to respondent No.1, whereby he candidly conceded that amount was paid in cash and not through banking instrument. Even petitioner has failed to demonstrate any illegality in the impugned order, nor is able to point out any jurisdictional defect or quote any event, whereby respondent No.1 has misused the concession of bail.

7. From the perusal of order dated 26.04.2019, it is very much evident that the impugned order has been passed with due caution, care and applicability of judicial mind. Moreover, considerations for bail cancellation are different from those for grant of bail and learned counsel for the petitioner has failed to point

out any consideration which calls for cancellation of bail granted to respondent No.1. Reliance in this regard is placed upon the judgment of Hon'ble Supreme Court of Pakistan reported as 2010 SCMR 580 (The State/Anti-Narcotic through Director General Vs. Rafiq Ahmad Channa), wherein it was held that:-

*---S. 497(5)---Cancellation of bail---Principles---  
Considerations for cancellation of bail are different from those for grant of bail---Bail can be cancelled, if the order on the face of it is perverse, patently illegal, erroneous, factually incorrect resulting in miscarriage of justice or has been passed in violation of the principles for grant of bail.*

8. For what has been discussed above, instant Crl. Misc. petition being meritless stands dismissed in limine.

(MOHSIN AKHTAR KAYANI)  
JUDGE

Zahid