

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT
CRL.MISC. NO.166-BC /2020

Tariq Masud
VS

Sikandar Ramzan Chaudhry and others

Serial No. of order/ proceeding	Date of order/ proceedings	Order with signatures of judge, and that of parties or counsel, where necessary.
03	08.07.2020	Raja M.Farooq, Advocate for petitioner. Syed Zulfiqar Abbas Naqvi & Mudassar Hussain Malik Advocates for respondents. Mr. Zohaib Hassan Gondal, State counsel with Rai Imran SI & Yasir SI.

GHULAM AZAM QAMBRANI, J

The petitioner [Tariq Masud] seeks cancellation of bail granted in favour of accused/ respondents 1 & 2, in case FIR No. 435/2019, dated 23.12.2019, under sections 324/34/109 PPC, registered at Police Station Shalimar, Islamabad.

2. Brief facts of the case are that the complainant/ petitioner lodged the FIR with the allegations that on 23.12.2019 at about 7:30 PM, four unknown accused having ages of 25/30 years, intercepted him in the area of Sector F-11/1, where on refusal of handing over of a bag containing documents to them, they caused severe injuries with daggers on different parts of his body for his murder, hence the instant FIR.

3. Learned counsel for the petitioner submits that the order of learned Trial Court is not only perverse but shocking in the perspective of the matter in hand; that the accused were directly nominated who had planted the persons for their own larger interests implicit in the numerous civil and criminal litigation; that the petitioner remained hospitalized for a period of around two weeks in critical condition; that the impugned order has been passed without applying the independent judicial mind; that accused/ respondent No.1 is misusing the concession of bail and constantly harassing the petitioner and his family.

4. On the other hand, learned counsel for the respondents 1 & 2 contended that the only allegation

against respondents 1 & 2 is of abetment which falls under section 109 PPC; that there is no evidence on record against the respondents; that the accused/ respondents did not misuse the concession of bail nor did they ever threatened the complainant in any manner; that the FIR has been lodged against them on the basis of false and baseless allegations. The learned State Counsel opposed the contention of the learned counsel for the petitioner and supported the bail granting order passed by the learned Trial Court.

5. Arguments heard, record perused.

6. Minute perusal of the record reveals that the complainant has levelled the allegation of abetment against the respondents. There is nothing on record to show that in whose presence the abetment was made by the respondents, whereas only the statement of the complainant/petitioner is not sufficient, unless there is strong piece of evidence available on record. The petitioner is employee of Hamad Chaudhary who is nephew of the respondent No.1 namely Sikandar Zaman Chaudhary. Civil and criminal litigation is pending between the parties with regard to the property left by Ch. Muhammad Ramzan (deceased). As such, possibility of false involvement of the respondents in the instant case cannot be ruled out. Keeping in view all these facts and circumstances, the learned Trial Court had rightly confirmed the pre-arrest bail to the respondents.

7. Prima facie, no incriminating material is available on record against the respondents. The guilt or otherwise of the accused/ respondents shall be determined after recording of prosecution evidence by the learned trial Court. The petitioner failed to bring on record any report with regard to extending of threats or misuse of the concession of bail.

8. The considerations for the grant of bail are quite different from the considerations for the cancellation of bail. Once bail has been granted by a competent Court of law, strong and exceptional grounds are required for cancelling the same. In such cases, it is to be seen as to whether order granting

bail is patently illegal, erroneous, factually incorrect and has resulted in miscarriage of justice. Considering the case of present respondents for the grant of bail on the above touchstone, I am of the view that the learned Sessions Judge-West, Islamabad has rightly exercised the grant of bail to the respondents.

9. The petitioner has also failed to point out whether after grant of bail the accused/ respondents have tampered with the prosecution evidence or misused the concession of bail. In this regard reliance has been placed on the Judgments titled “ The State Vs Khalid Mehmood” [2006 SCMR 1265] & “ Ahsan Akbar Vs The State” [2007 SCMR 482].

10. For the foregoing reasons, no reasonable grounds exist for cancellation of bail granted to the accused/ respondents, therefore, the instant petition being devoid of force, is hereby dismissed.

11. However, the observations made hereinabove are meant for disposal of this application, which shall have no bearing on merits of the case.

(GHULAM AZAM QAMBRANI)
JUDGE

S.Akhtar