

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

Crl. Misc. No.96-BC of 2020

Khadam Hussain Ch.
Versus
Safdar Khan and another

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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(06)	21.04.2020	Mr. Waqar Ahmed, Advocate for the petitioner. Respondent No.1 in person. Mr. Zohaib Hassan Gondal, State Counsel along Yasir, A.S.I.
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In view of my detailed order of even date
passed in Crl. Misc.576-BC/2019, this petition is also
dismissed.

(GHULAM AZAM QAMBRANI)
JUDGE ✓

Rana .M.Ift.

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

Crl. Misc. No.576-BC of 2019

Khadam Hussain Ch.
Versus
Akhtar Nawaz and another

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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21.04.2020	Mr. Waqar Ahmed, Advocate for the petitioner. Ch. Abdul Rehman Hur Bajwa, Advocate for respondent No.1 alongwith respondent. Mr. Zohaib Hassan Gondal, State Counsel along Yasir, A.S.I.
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Ghulam Azam Qambrani, J.:- By this single order, I intend to decide instant as well as criminal miscellaneous No.96/2020 arising out of the impugned orders dated 04.09.2019 and 11.11.2019.

2. The petitioner (Khadim Hussain Ch) seeks cancellation of bail granted in favour of accused/ respondents (hereinafter be called as “**respondents**”), in case F.I.R No.117, dated 09.07.2019, offence under Sections 406/34 PPC, registered at Police Station Margala, Islamabad.

3. Briefly, facts as narrated in the F.I.R are that the co-accused namely Akhtar Nawaz introduced petitioner with Ashraf Shoaib and Kamran Ashraf, who offered a post of Executive Director in their company i.e. “*IT Today Pvt Ltd*” which he accepted and joined the said company on 01.04.2018. That after some time, they asked him that they need cars for their business purpose and will pay a handsome amount per month as rent for said cars and will return the same whenever the cars are required by him. Petitioner handed over his three

cars, details of the cars are mentioned in F.I.R, for said purpose. That after sometime, accused persons started to delay in payment of rent of the said cars and also refused to return the said cars to him. Hence, the instant F.I.R

4. The respondents/ accused (Safdar Khan and Akhtar Nawaz) applied for the grant of pre-arrest bail before the learned Additional Sessions Judge-IX (West) Islamabad, which was confirmed vide orders dated 04.09.2019 and 11.11.2019. The petitioner being aggrieved filed the instant petitions for cancellation of bail granted to respondent/ accused.

5. Learned counsel for the petitioner, *inter-alia*, contended that the impugned order passed by the learned Addl. Sessions Judge is totally against the record, as the accused have been nominated in the F.I.R, therefore, the impugned order is liable to be recalled. Further submitted that while passing the impugned order, learned Additional Sessions Judge-IX, (West) Islamabad, has not bothered to read the contents of F.I.R. Lastly, submitted that the impugned order is totally against the settled law for grant of pre-arrest bail hence, the bail granting order passed by the learned Additional Sessions Judge is liable to be recalled.

6. Conversely, learned counsel for the respondents contended that no ground for cancellation of bail is available to the petitioner; that the challan has already been submitted before the learned trial Court; that the investigation of the case has been completed and the trial has commenced. The learned State counsel supported the impugned order.

7. Arguments heard; record perused.

8. Perusal of the record reveals that the petitioner himself entered into a lease (rent) agreement with one Dr. Syed Ashraf Shoaib, Chief Executive Officer of IT Today Pvt Ltd on different dates with regard to his vehicles and the respondents have nothing to do with the said lease agreement executed between the petitioner and Dr. Syed Ashraf Shaoib.

9. There is no evidence that the respondents have tampered with the prosecution evidence or misused the concession of bail. The bail can only be cancelled if the order on the face of it is perverse and has been passed in violation of the principles for the grant of bail. In this regard, reliance is placed on the Judgments titled Muhammad Akram Vs. Zahid Iqbal and others (2008 SCMR 1715), "Muzaffar Iqbal Vs Muhammad Imran Aziz and others" (2004 SCMR 231), "The State Vs Khalid Mehmood" [2006 SCMR 1265], "Shahneel Gul and two others vs. The State" (2018 YLR 999), "Ahsan Akbar Vs The State" [2007 SCMR 482] and "Dr. Muhammad Tairq Vs. The State" and others [2017 SCMR 1944]

10. The considerations for the grant of bail are quite different from the considerations for 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 whereas in the instant case the petitioner has failed to establish any such ground in the instant case.

11. I have also gone through the impugned orders dated 04.09.2019 and 11.11.2019, which are

based upon legal principles and no illegality has been observed, therefore, requirement of Section 497(5) Cr.P.C is not visible, as no perversity, illegality or violation of Court order or tampering with prosecution evidence of this case has been established against the respondent, therefore, instant petition are misconceived and the same are hereby **dismissed**.

12. 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

Rana M.Ift.