

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

Crl. Misc. No.783-BC/2020
and
Crl. Misc. No.784-BC/2020
Muhammad Muneeb Zahid
versus
Muhammad Akif & another

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	03.07.2020	Mr. Shajjar Abbas Hamdani, Advocate for petitioner. Mr. Sherjeel Adnan Sheikh and Mr. Moazzam Habib, Advocates for Respondent No.1 (accused) Mr. Hasnain Haider Thaheem, State Counsel. Muhammad Nawaz Thabal, S.I., P.S. Kohsar, Islamabad. Ali, ASI, P.S. Kohsar, Islamabad.

MOHSIN AKHTAR KAYANI, J: Through this single order, I intend to decide the captioned criminal miscellaneous applications as in both the applications parties are same and common facts are involved in both these applications. Muhammad Muneeb Zahid (petitioner) is seeking cancellation of bail granted by this Court to Muhammad Akif (Respondent No.1/accused), vide consolidated order dated 16.03.2020, in case FIR No.21, dated 16.01.2020, under Section 489-F PPC, P.S. Kohsar, Islamabad and FIR No.15, dated 14.01.2020, under Section 489-F PPC, P.S. Shalimar, Islamabad.

2. Brief and consolidated facts as referred in the instant case are that on the complaint filed by the petitioner, the aforementioned criminal cases i.e. FIR No.21/2020 and FIR No.15/2020 have been registered against Respondent No.1 under Section 489-F PPC, whereby cheques handed over to petitioner by Respondent No.1 regarding fulfillment of his obligation had been dishonored. Resultantly, respondent

No.1 filed pre-arrest bail applications i.e. Crl. Misc. No.158/2020 and Crl. Misc. No.159/2020 before this Court, whereby he has been granted pre-arrest bail subject to payment of balance amount of Rs.2,337,840/-, but Respondent No.1 with malafide intention did not deposit the said balance amount. Hence, the captioned criminal miscellaneous applications for cancellation of bail.

3. Learned counsel for petitioner contends that despite clear direction of this Court while granting pre-arrest bail to Respondent No.1, vide order dated 16.03.2020, the latter with malafide intention had not complied with such direction and misused the concession of bail, therefore, the said order of granting bail to Respondent No.1 may be recalled.

4. Conversely, learned counsel for respondent No.1 opposed the filing of instant bail cancellation application and contends that Respondent No.1 has tried his best to manage and deposit the balance amount with the learned trial Court but he could not succeed, regarding which Respondent No.1 has also filed an application for extension in time so that he could manage the balance amount.

5. Arguments heard, record perused.

6. Tentative assessment of the record reveals that respondent No.1 was granted pre-arrest bail, vide consolidated order dated 16.03.2020, passed in Crl. Misc. No.158-B/2020 and Crl. Misc. No.159-B/2020, in the following manner:

"5. In view of above position the ad-interim pre-arrest bail already granted to the Petitioner vide order dated 28.02.2020 is confirmed subject to furnishing surety bonds of Rs.50,000/- with one surety in the like amount to the satisfaction of the learned trial Court. However, petitioner shall deposit the cash amount of Rs.2,337,840/- in case FIR No.21, dated 16.01.2020, under Section 489-F PPC PS Kohsar, Islamabad in the trial Court

within 30 days as security. Cash amount deposited before the learned trial Court shall remain in the Court account and same shall be released subject to the final decision of the learned trial Court.

6. *The I.O. in attendance contends that challan has not yet been submitted in the trial Court. He is directed to complete the same at the earliest. It is expected from the learned trial Court seized with the matter to conclude the trial of the instant case within a period of six (06) months after submitted of challan."*

7. The abovementioned order has not been complied with by respondent No.1, which compelled the petitioner to file the instant bail cancellation applications mainly on the ground that direction passed by this Court has not been complied with, even a fresh surety of Rs.50,000/- has neither been furnished to the satisfaction of the learned Trial Court nor the amount of Rs.2,337,840/- has been deposited in the Court, as such, it is a blatant violation of the undertaking given by respondent No.1 before this Court, which has been recorded in the order of 16.03.2020.

8. Learned counsel for respondent No.1 has been confronted with these facts, whereby the learned counsel for respondent No.1 contends that despite best efforts made by respondent No.1 he could not arrange the agreed amount of Rs.2,337,840/- as recorded in the order dated 16.03.2020 and even he could not submit the surety within the prescribed time. However, he contends that he has filed an application i.e. Crl. Misc. No.160/2020 for further extension of time due to Covid-19 Pandemic, though at this stage, it reflects that respondent No.1 in order to wriggle out from his obligation filed Crl. Misc. No.160/2020 to gain further time and as such, it is an apparent violation of the Court's order having been passed on the undertaking of respondent No.1, whereby time of 30 days was granted, but he has misused the concession

and violated the terms, therefore, Respondent No.1 is not entitled for any discretionary relief.

9. In view of above, the captioned criminal miscellaneous applications for cancellation of bail are hereby ACCEPTED, the consolidated order dated 16.03.2020, passed in Crl. Misc. No.158/2020 and Crl. Misc. No.159/2020 is RE-CALLED and the ad-interim bail granted to Respondent No.1 Muhammad Akif is CANCELLED.

(MOHSIN AKHTAR KAYANI/
JUDGE

Khalid Z.