

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

Crl. Misc. No.423-BC of 2019

Rasheed Ahmed Sheikh DG (R) ISI
Versus
Hameed Ullah Kakar 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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06.03.2020	Mr. Zia Ur Rehman, Advocate for the petitioner. Mr. Khawaja Shahid Rasool, Advocate for complainant. Mr. Zohaib Hassan Gondal, State Counsel along with Saleem Raza, Sub-Inspector, and Khalid, A.S.I.
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Ghulam Azam Qambrani, J.:- The petitioner (Rasheed Ahmed Sheikh) seeks cancellation of bail granted in favour of accused/ respondent No.1 (hereinafter be called as “**respondent**”), in case F.I.R No.110, dated 24.03.2019, offence under Sections 420, 468 & 471 PPC, registered at Police Station Karachi Company, Islamabad.

2. Briefly facts as narrated in the F.I.R are that the accused/ respondent No.1 prepared forge document of E.T.O office and used the same as genuine and dishonestly induces the delivery of property .

3. The respondent/ accused applied for the grant of pre-arrest bail before the learned Additional Sessions Judge-IX (West), Islamabad, which was confirmed on 04.05.2019. The petitioner being aggrieved has filed the instant petition for

cancellation of bail granted to respondent No.1/accused.

4. Learned counsel for the petitioner, *inter-alia*, contended that the impugned order passed by the learned trial Court is totally against the law; that respondent has committed a heinous offence which is against the public at large, hence, he is a hardened and desperate criminal; that sufficient evidence is available on record to connect the accused with the commission of alleged offence and the impugned order has been passed without hearing the petitioner which is violation of principle of natural justice, therefore the impugned order is liable to be recalled.

5. Conversely, learned counsel for the respondent contended that the F.I.R was lodged by the complainant with ulterior motive; that there is no element to connect he accused with the commission of the alleged offence; that the respondent is a well reputed businessman and never thinks to do any illegal or unlawful act; that the complainant is liable to pay huge amount to the petitioner; when the petitioner demanded the said amount, he managed registration of above said false and frivolous F.I.R against the present petitioner.

6. Arguments heard, record perused.

7. Perusal of the record reveals that there was business dealing between the parties regarding buying and selling of vehicles since long. It appears that there is a dispute of civil nature between the parties and that the complainant is trying to convert civil litigation into criminal proceedings, as such, the malafide involvement of the respondent in the instant case cannot be ruled out.

8. It also transpires from perusal of record that the respondent/ accused produced original document of the vehicle bearing registration No. AJA-418, Challan No.1934574 dated 11.05.2018, which were sent by the police to the Excise and Taxation Department for verification of registration book, and were found genuine and further the photocopy of smart card of vehicle bearing registration No.AEH-859 having Serial No.161110168939 as genuine which fact negates the prosecution story, therefore, the learned Additional Sessions Judge, has rightly confirmed the pre-arrest bail vide order dated 04.05.2019.

9. There is no evidence that the respondent has 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) and "Ahsan Akbar Vs The State" [2007 SCMR 482].

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 the petitioner has failed to establish any such ground, in the instant case.

11. I have also gone through the impugned order dated 04.05.2019, which is 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 is misconceived and the same is 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.