

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

**Crl. Misc. No.775-BC of 2019**

Jahangir Khan  
***Versus***  
Kausar Mushtaq, etc.

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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03.07.2020	Mr. Zahid Asif Chaudhry, Advocate for the petitioner. Ch. Abdul Rehman Hur Bajwa, Advocate alongwith respondents No.1 to 3. Mr. Zohaib Hassan Gondal, State Counsel alongwith Ghulam Jillani, S.I.
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**Ghulam Azam Qambrani, J.:-** The petitioner (Jahangir Khan) seeks cancellation of bail granted in favour of accused/ respondents No.1to 3 (hereinafter be called as “***respondents***”), in case F.I.R No.453, dated 25.09.2019, offence under Sections 420, 468 & 471 PPC, registered at Police Station Koral, Islamabad.

2. Briefly facts as narrated in the F.I.R are that complainant purchased land measuring 18 Kanal 02 Marlas situated at Kirpa, Islamabad, from respondents against the sale consideration of Rs.87,00,000/- upon stamp No.23971; that out of the said land, the accused/ respondents transferred land measuring 04 Kanal 16 Marlas in favor of Qasim Ali son of the complainant through fake power of

attorney upon which the Tehslidar, Islamabad, got lodged F.I.R against the accused persons with Police Station Sabzi Mandi, Islamabad; that the accused persons have misappropriated the amount of the complainant i.e.Rs.87,00,000/- which were given to them as a trust, hence the above said F.I.R. The respondents moved bail before arrest before the learned Additional Sessions Judge-VI, Islamabad-East, which was confirmed vide order dated 31.10.2019, hence the instant petition.

3. Learned counsel for the petitioner, *inter-alia*, contended that the impugned order passed by the learned trial Court is totally against the law, facts and circumstances of the case resulting into miscarriage of justice; that the impugned order has been passed in violation of the principles for grant of pre-arrest bail, therefore, the same is result of misreading & non-reading of record, as such, is not sustainable in the eye of law, therefore, the impugned order is liable to be recalled.

4. Conversely, learned counsel for the respondents contended that the respondents have been involved in the instant case with malafide intention and ulterior motive just to harass and humiliate them; that the offences mentioned in the F.I.R do not fall within the prohibitory clause of

section 497 Cr.P.C; that there is inordinate and unexplained delay in lodging of the F.I.R; that another F.I.R No.210/ 2018 regarding the same occurrence has also been registered with Police Station Sabzi Mandi, Islamabad, as such, the respondents cannot be vexed twice for the same offence, therefore, the learned Additional Sessions Judge, Islamabad, has rightly confirmed the bail to the petitioner vide impugned order. The learned State counsel submitted that the investigation has been completed and the challan has already been submitted before the learned trial Court and supported the impugned order.

5. Arguments heard, record perused.

6. Perusal of the record reveals that land measuring 04 Kanal 16 Marla has been transferred on the name of Qasim Ali son of complainant on the basis of registered general power of attorney which has been got verified by the office of the Sub-registrar- Islamabad, from the office of the Sub-registrar-Saddar, Gujranwala. Kauser Mushtaq/ accused lodged a complaint against Halqa Patwari, on the basis of which the said Halqa Patwari was suspended and due to that grudge, Amjad Hussain Registry Moharrir got lodged F.I.R No.210/ 2018 with Police Station Sabzi Mandi stating therein that

Kauser Mushtaq submitted forged verification and fake register Haqdaran-e-Zamin to get the sale deeds registered. Perusal of the record further reveals that the said Registry Moharrir has also filed a civil suit against the respondents, whereby he has challenged three sale deeds. Perusal of the record further reveals that the petitioner filed a petition under Section 22-A Cr.P.C for registration of another F.I.R against the respondents wherein the Superintendent of Police reported that an F.I.R No.210/ 2018 has already been lodged, as a result of which the said petition under Section 22-A Cr.P.C was withdrawn by the petitioner vide order dated 11.03.2019, but in connivance with the police, the petitioner succeeded to lodge the instant F.I.R against the respondents. As such, keeping in view the facts and circumstances of the case, the learned Additional Sessions Judge, Islamabad has rightly confirmed the pre-arrest bail moved by the respondents vide impugned order dated 31.10.2019. Perusal of the record further transpires that in the previous F.I.R No.210/ 2018, dated 19.05.2018 under Section 420, 468, 471, 467 & 344 P.P.C registered with the Police Station Sabzi Mandi, Islamabad, the accused namely Raja Tahir and Noshat Zeb have been acquitted by the learned Judicial Magistrate vide order dated 24.09.2019,

7. 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) and "Ahsan Akbar Vs The State" (2007 SCMR 482).

8. The considerations for the grant of bail are quite different from the considerations for cancellation of bail. Once the 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 into miscarriage of justice whereas, the petitioner has failed to establish any such ground, in the instant case.

9. I have also gone through the impugned order dated 31.10.2019, 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 respondents, therefore, instant petition being misconceived is hereby **dismissed**.

10. 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.**