

ORDER SHEET
IN THE ISLAMABAD HIGH Court, ISLAMABAD
(Judicial Department)

Crl. Misc. No. 700-BC/2017

Uzma Mukhtar
Versus
Zain ul Abdin and another

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	08.06.2020	Raja Rizwan Abbasi, Advocate for the petitioner. Mr. Ashfaq Hussain Shah, Advocate alongwith respondent No.1. Ch. Abdul Jabbar, Assistant Attorney General. Ms. Shumaila Saeed, Inspector F.I.A.

Ghulam Azam Qambrani, J.:-The petitioner (Uzma Mukhtar d/o Mukhtar Hussain) seeks cancellation of bail granted in favour of respondent No.1/ accused (hereinafter be called as ***“respondent”***) , in case F.I.R No. 45, dated 18.08.2016, under Sections 36/37 ETO, 500/506/509 P.P.C registered at Police Station F.I.A/Cyber Crime Circle, Islamabad.

2. Brief facts of the case are that the complainant/ petitioner lodged the instant F.I.R against the respondent for harassing, threatening and blackmailing the complainant and demanding large amount of money from her.

3. The respondent/ accused applied for the grant of post-arrest bail before the learned Additional Sessions Judge, Islamabad-West, which was allowed vide order dated 27.08.2016 on the basis of compromise. Thereafter, the petitioner moved petition under Section 497 (5) Cr.P.C for cancellation of bail on the ground that after grant of bail respondent is continuously misusing the concession of bail which was dismissed vide order dated 01.06.2017 hence, the instant petition.

4. Learned counsel for the petitioner contended that the respondent is misusing the concession of bail and blackmailing and harassing the petitioner and hampering the process of law.

5. On the other hand, learned counsel for the respondent/accused submits that all the prosecution witnesses have been recorded and only the statement of investigation officer is to be recorded. That the respondent has never misused the concession of bail.

6. Arguments heard, record perused.

7. Perusal of the record shows that the statements of all the prosecution witnesses, except investigation officer, have been recorded. It is settled principle of law that 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, whereas in the instant case, the petitioner has failed to establish any such ground. The principles governing the grant of bail and the cancellation of bail substantially stand on different footings. Courts have always been slow to cancel bail already granted as the liberty of a person cannot be curtailed on flimsy grounds. No interference with an order of bail is required to be made unless the order lacks in reasons or is perfunctory in nature.

8. Once bail has been granted, the prosecution should make out strong case for cancellation not by making allegation alone but by giving substantive proof of such allegation. The cancellation of bail is harsh order because it interferes with liberty of an individual hence it must not be resorted to lightly and power to take back in custody is to be exercised with due care and circumspection.

9. Similar observations were made by the apex court in case reported as Abdul Rasheed Khan v. Zahoor Ahmed Malik (PLD 2011 S.C. 210), wherein it was observed as follows:-

"We have been informed that Challan has already been submitted in this case. This Court is generally slow in cancelling an accused person's bail at such a stage of a criminal case. No allegation has been leveled by the petitioner-complainant, the State or National Accountability Bureau regarding misuse or abuse of concession of bail."

10. 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 "The State Vs Khalid Mehmood" [2006 SCMR 1265] and "Ahsan Akbar Vs The State" [2007 SCMR 482]. Therefore, instant petition is without any merit and the same is hereby **dismissed**.

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

~~(GHULAM AZAM QAMBRANI)~~
JUDGE

Announced in open Court on this 30th day of June, 2020.

~~JUDGE~~

Rana M. Ift