

JUDGMENT SHEET
IN THE PESHAWAR HIGH COURT,
D.I.KHAN BENCH
(Judicial Department)

Cr.MBCA.No.13-D/2018

Ahmad Saeed

Versus

Abdul Rashid and others

JUDGMENT

Date of hearing: **22.3.2018**

Petitioner by: **Muhammad Anwar Awn Advocate.**

Respondents: **(State by) Mr. Adnan Ali, Asstt: A.G and**
(respondents No.1 to 6 by) Mr. Farooq
Akhtar Advocate.

SHAKEEL AHMAD, J.- Through the instant petition filed under Section 497(5) Cr.PC, the petitioner seeks cancellation of post arrest bail of the respondents No.1 to 6 in case FIR No.279 dated 09.6.2017 registered under Sections 411/379/427/447/506 PPC at Police Station Paroa, District D.I.Khan.

2. It is argued by the learned counsel for the petitioner that the accused/respondents have specifically been charged in the FIR for commission of offence; that there are reasonable grounds to believe that the accused have committed a non bailable offence, therefore, they do not deserve the concession of bail; that the bail granting

order passed by the learned Judicial Magistrate is patently illegal; that the learned Additional Sessions Judge without considering the implicating material dismissed the application for cancellation of bail, illegally, therefore, warrants interference.

3. As against that, the learned counsel representing the respondents No.1 to 6 argued that the offence with which the accused/respondents are charged is not covered by the restrictive clause of Section 497 Cr.PC; that there is nothing on the record to show that the bail granting order is perverse and patently illegal; that there is no allegation of misuse of concession of bail and prayed for dismissal of the petition.

4. Learned Asstt: A.G. representing the State supported the contention of the learned counsel for the respondents.

5. Arguments heard and record perused.

6. Perusal of the record reflects that the alleged offence was committed on 28.5.2017, and report was lodged by the complainant on 29.5.2017. There is inordinate delay in lodging the report. The offence with which the respondents are charged is not hit by the restrictive clause of Section 497 Cr.PC.

7. It is now settled that bail in cases not falling within the prohibitory clause of Section 497 Cr.PC, is a

rule and refusal thereof is an exception. In this respect reliance may be placed on the cases of “Mst. Shezan Sanaullah Vs. State” (2006 P Cr.LJ 522) and “Muhammad Akram Vs. State” (2009 P Cr.LJ 497).

8. Moreover, neither the plea of misuse of the concession of bail was taken nor urged before the Court. There is nothing on the record to show that the impugned orders are perverse or illegal or without jurisdiction. It is settled law that when bail is granted by a Court of competent jurisdiction on the basis of valid reasons, the same cannot be recalled/cancelled until exceptional grounds are established by the complainant/prosecution. In this respect reliance is placed on “Mst. Riffat Munir Vs. Naveed Zafar and another” (2016 P Cr.LJ 464).

Learned counsel for the petitioner failed to point out that the bail granting order was either perverse or disregard of settled principles for granting the bail or that the discretion exercised in favour of the respondents is injudicious.

9. For what has been stated above, the petition in hand being bereft of merit is dismissed.

Announced
Dt: 22.3.2018.

JUDGE