

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Munib Akhtar

Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Petition No.1290 of 2021

(Against the judgment dated 01.11.2021 passed by the Lahore High Court, Rawalpindi Bench in Crl. Misc. No.7752/2021)

Muhammad Shoaib

...Petitioner(s)

Versus

The State & another

...Respondent(s)

For the Petitioner(s): Mr. Aftab Alam Yasir, ASC

For the Respondent(s): N.R.

Date of Hearing: 06.12.2021.

ORDER

Qazi Muhammad Amin Ahmed, J.- The petitioner, blamed to have violated Nadia Bibi, prosecutrix, inside her home, located within the precincts of Police Station Jatoi, District Muzaffargarh, on 23.5.2021, unsuccessfully attempted for bail in anticipation to his arrest, first, through Criminal Miscellaneous No.7079-B/2021, dismissed as withdrawn before a learned Judge-in-Chamber of the Lahore High Court at Multan Bench; earlier dismissal, notwithstanding, he once again applied through Criminal Miscellaneous No. 7752-B/2021, dismissed vide impugned order dated 01.11.2021, by the learned Judge *in limine*.

Confronted with petitioner's choice to withdraw the motion by his own election, the learned counsel pleaded that withdrawal being simpliciter without adjudication on merits of the case did not stand in impediment to re-hearing of the plea; an argument found by us as entirely beside the mark. It is by now well settled that an accused can maintain a subsequent bail petition, at post arrest stage, only on the strength of a fresh ground, accrued after dismissal of his first plea. It

has been held by this Court in the case titled The State through Advocate General N.W.F.P. vs. Zubair Ahmed and 4 others (PLD 1986 SC 173) that a ground earlier available but abandoned cannot be received as a fresh ground and, thus, consequences of withdrawal of a bail petition, made at any stage of hearing, cannot be quantified nor viewed as *simpliciter* and as such does not allow space for a second attempt in the absence of a newly accrued ground. For all intents and purposes, it is an abandonment, resorted to, more often than not, in the face of an impending dismissal. After withdrawal of a pre-arrest bail petition, exclusively maintained on the consideration of *mala fide*, hardly there is an occasion for a somersault. Petition fails. Leave declined.

Judge

Judge

Islamabad, the
6th December, 2021
Azmat/-