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

Criminal Misc. No. 347-BC of 2022

Sardar Shahid Ahmed Khan
Versus
Farzeen Irtizaz& another

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.

23.05.2022: Syed Nadeem Hussain Zaidi, Advocate for petitioner/ complainant.

Through the instant criminal misc., petitioner prays for cancellation of pre-arrest bail granted to respondent No.1*(Mst. Fareen Irtizaz*) vide order dated 06.09.2021, passed by the learned Additional Sessions Judge-I, Islamabad-East in FIR No. 300, dated 19.09.2019 under section 489-F PPC, Police Station Lohi Bhair, Islamabad.

2. Precisely, relevant facts are that initially on the same allegations, petitioner got registered FIR No.110, dated 02.04.2019 under Section 489-F PPC against the respondent No.1 at Police station Kohsar, Islamabad. The latter filed application for pre-arrest bail which was disposed of by the then learned Sessions Judge, Islamabad (West) vide order dated 30.07.2019 by observing that "*FIR of P.S Kohsar after canceling the offence from said police station may be transferred to P.S. Lohi Bher*."

3. After the registration of FIR at Police Station Lohi Bher, Islamabad, respondent No.1 applied for pre-arrest bail which was allowed by the learned Additional Sessions Judge-I, Islamabad-East vide order dated 06.09.2021. Hence, instant petition.

4. Learned counsel argued that the impugned order is arbitrary and against the law and facts; that respondent No.1 is a habitual offender and since absconded, therefore, impugned order is liable to be set aside.

5. Heard, record examined.

6. It is settled principle that for cancellation of bail strong and exceptional grounds are required besides to show that the bail granting order is erroneous, accused has misused the concession of bail, tried to hamper prosecution evidence, likelihood of absconsion, attempted to interfere with investigation and that some fresh facts and material has been collected during investigation. Reliance is placed upon case of "***Samiuallah& another v. LaiqZada& another*" (2020 SCMR 1115) followed in criminal petition NO. 1459/2020, 1523/2020, 970 to 976/2021 and Criminal Petition No. 1145-L/2020.**

7. Record reveals that the punishment provided for the offence under section 489-F PPC is up to three years which does not fall within the ambit of prohibitory clause of Section 497 Cr.P.C, wherein grant of bail is a rule and refusal is an exception.

8. The learned Court of first instance on tentative assessment of the material collected by the prosecution, *inter alia*, observed that:

> *"Petitioner's version was that the cheque in question was issued in year 2016 and in lieu of the said cheque another cheque had been issued to complainant. On the basis of which cheque the petitioner was entangled in a criminal case vide separate FIR. After full fledge trial, the complainant failed to*

establish his version and the petitioner was acquitted from the Trial Court. The stamp papers relied upon by the complainant in both the cases, one filed earlier and the present case bears same number endorsed at the back of stamp papers. The entry in the register of stamp vender against the number 3855 tilts the matter towards further probe and investigation. Petitioner had highlighted certain occasions when payments had been made to complainant through banks transaction or given money in hand etc."

9. The reasons prevailed with *ibid* for extending extra ordinary concession of pre-arrest bail cannot be termed as arbitrary or perverse.

10. So far as the ground that the respondent No.1 is keeping herself away from the process or misused the concession of bail, proper course for the petitioner would be to move the Court, seized with the trial of the subject case.

11. The learned counsel for the petitioner remained unable to advance any exceptional ground which could be made basis to upset the impugned order which, in the attending circumstances of the case, appears to be just and proper. Consequently, the instant Crl. Misc. is **dismissed** accordingly.

(ARBAB MUHAMAMD TAHIR)
JUDGE

A.R. Ansari