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

Crl. Misc. No. 438-BC of 2023

Jahanzeb Hasrat

Versus

Abdul Waheed and others.

Serial No. of order of proceedings	Date of order of proceedings	Order with signatures of judge, and that of parties of counsel, where necessary.
1	2	3
	20.02.2024:	Mr. Shafiq ur Rehman, Advocate for the petitioner. Raja Muhammad Jameel Abbasi and Ch. Wajid Hussain, Advocates for the respondents. Ms. Balqees Rahat, State Counsel with Fayyaz Akbar, S.I. Islamabad Police.

MUHAMMAD ASIF, J: Through this single judgment this Court intends to decide the following Bail Cancellation petitions, involving a common question of law and facts. The particulars of the these petitions are as under:-

i. **Crl. Misc. No. 439-BC/2023**
Jahanzeb Hasrat v. Waqas Ahmed and another.
ii. **Crl. Misc. No. 440-BC/2023**
Jahanzeb Hasrat v. Ajmal Hussain and others.
iii. **Crl. Misc. No. 441-BC/2023**
Jahanzeb Hasrat v. Raja Zaheer Ahmed and another.
iv. **Crl. Misc. No. 442-BC/2023**
Jahanzeb Hasrat v. Zafar Mehmood and others.

v. **Crl. Msc. No. 443-BC/2023**
Jahanzeb Hasrat v. Abid Hussain and another.

vi. **Crl. Misc. No. 444-BC/2023**
Jahanzeb Hasrat v. Muhammad Umair and another.

vii. **Crl. Misc. No. 445-BC/2023**
Jahanzeb Hasrat v. Qamar Ikhlaq and another.

viii. **Crl. Misc. No. 446-BC/2023**
Jahanzeb Hasrat v. Nisar Ahmed and another.

ix. **Crl. Misc. No. 447-BC/2023**
Jahanzeb Hasrat v. Shafqat Hussain and others.

x. **Crl. Misc. No. 448-BC/2023**
Jahanzeb Hasrat v. Shamraiz and another.

xi. **Crl. Misc. No. 449-BC/2023**
Jahanzeb Hasrat v. Zaheer Ahmed and others.

xii. **Crl. Misc. No. 556-BC/2023**
Jahanzeb Hasrat v. Zardad Khan and others.

3. Facts of the case are that the petitioner has filed instant bail Cancellation petition in terms of Section 497(v) of Cr.P.C. The petitioner (complainant) namely *Jahanzeb Hasrat* impugns the order dated 21.02.2023, passed by the learned Additional Sessions Judge-I Islamabad (East) whereby respondents namely *Abdul Waheed, Qamar Ikhlaq, Nasir Mehmood, Mujahid Ahmed, Maqsood Ahmed and Raja Asif Mehmood* were allowed pre-arrest bail in case FIR No.24, dated 03.02.2023, under Section 462-C and 462-D PPC, Police Station Phulgran, Islamabad, by observing as under:-

> "8. It is thus, any admission of applicants does not absolve SNGPL to prove the case against applicants' **willful conduct,** in tempering the distribution pipeline coupled with the loss, the applicants individually caused to the SNGPL as per the spirit of section 462-C PPC. These lack of facts make the prosecution case against the applicants one of further inquiry.
> 9. The applicants are locals of the village. Prima facie the way they were supplied gas and meters do not appear to be without assistance of some professionals either black sheep within SNGPL squad or outside impersonating. There is a considerable delay in registering a case which has not been explained."

4. The subject FIR stood registered on the complaint of petitioner/complainant, wherein it was alleged that on 03.02.2023 the above named accused/respondents and 28 other persons were using the illegal gas supply by tempering with auxiliary or distribution pipeline and the gas meters installed there were also found tempered.

5. Learned counsel for the petitioner argues that the respondents have caused huge loss to the national exchequer while stealing or tempering gas meters. The learned trial Court misused the discretion vested in it, there is not a single ground relating to the false implication of the accused persons/respondents in the instant case. The respondent No. 1 to 6 are influential persons whose release will weaken the case of the petitioner because of their influence on the investigation who have been granted extra ordinary relief without hearing the complainant/petitioner. Therefore, requested for the cancellation of bail.

6. On the contrary, learned counsel for respondents assisted by the State Counsel repelled the above submissions by

contending that the pre-requisite to the extent of extra ordinary relief to the respondents, and there exists no illegality or irregularity in the Impugned order. The instant case was registered solely on the basis of complaint filed by the petitioner; and no ground warrant cancellation of bail as raised by the petitioner, therefore, petition is liable to be dismissed.

7. Heard, record perused.

8. The Supreme Court of Pakistan in the case of "*Sami Ullah and another v. Laiq Zada and other"* (**2022 SCMR 1115**) reiterated the principles for cancellation of bail which are (i) *If the bail granting order is patently illegal, erroneous, factually incorrect and has resulted into miscarriage of justice,* (ii) *accused has misused the concession of bail in any manner*, (iii) *accused has tried to hamper prosecution evidence by persuading/pressurizing prosecution witnesses,* (iv) *there is likelihood of absconsion of the accused beyond the jurisdiction of Court,* (v) *accused has attempted to interfere with the smooth course of investigation,* (vi) *accused misused his liberty while indulging into similar offence* and that, (vii) *some fresh facts and material has been collected during the course of investigation which tends to establish guilt of the accused*.

9. Furthermore, the superior courts are cautious to interfere into the order extending concession of bail rather shown unwillingness to interfere in such like matters. Reliance is placed upon case of *Shahid Arshad v. Muhammad Naqi Butt and 02 others* (**1976 SCMR 360**) wherein it was held that *"In these circumstances although we are not happy about the order passed*

by the learned Single Judge of the High Court, we do not think it advisable to interfere with his order at this stage. If at any time any one of the said two respondents misuses the privilege of bail it will be open to the petitioner to approach the High Court for cancellation of bail."

10. The principles on the subject guides to observe that once concession of bail is granted by a court of competent jurisdiction then very strong and exceptional grounds would be required to hamper with the concession extended to an accused who is otherwise clothed with free life, as a consequent of concession and if any other view is taken by the court it would be synonymous to curtailing the liberty of said accused prior to completion of trial, which otherwise is a precious right guaranteed under the Constitution of the country.

11. In the present case, the petitioner has not pressed any ground i.e. (i) *accused has misused the concession of bail in any manner,* (ii) *accused has tried to hamper prosecution evidence by persuading/pressurizing prosecution witnesses,* (iii) *there is likelihood of absconsion of the accused beyond the jurisdiction of Court,* (iv) *accused has attempted to interfere with the smooth course of investigation,* (v) *accused misused his liberty while indulging into similar offence,* and that, (vi) *some fresh facts and material has been collected during the course of investigation which tends to establish guilt of the accused.*

12. The instant petition has been filed on the ground that the impugned order is against the law and facts of the case. In absence of incriminating material, implication of respondents

merely on the basis of FIR would not suffice to hold the respondents to disentitle them to extra ordinary relief particularly when the offences alleged do not fall within the ambit of prohibitory clause of section 497 Cr.PC and the grant of bail is a rule and refusal is an exception in the same manner as it is granted or refused in offences that do not fall within the prohibitory clause of Section 497(1) Cr.P.C. Reliance is placed upon case of *Tahira Batool v. The State* (**PLD 2022 SC 764**).

13. In view of above, the impugned order appears to be in accordance with law and facts of the case, therefore, does not call for any interference. Consequently, instant bail cancellation petition along with connected bail petitions are **dismissed.**

(MUHAMMAD ASIF)
JUDGE

//Kamran//*