JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

CRIMINAL REVISION NO. 15 OF 2025

Muhammad Shahbaz Bhatti
Vs
Faiz Al Hassan & another.

Petitioner by: Mr. Usman Ali, Advocate.

Respondents by: Raja Fakhar Ejaz, Advocate along with Respondent No.1.
Rana Hassan Abbas, Assistant District Public Prosecutor (ADPP).
Mr. Muhammad Hassan, ASI, Police Station Khanna.

Date of hearing: 08.04.2025

MUHAMMAD AZAM KHAN, J.

1. Through the instant Criminal Revision Petition under Sections 435 and 439, Code of Criminal Procedure, 1898 **("Cr.P.C")**, Muhammad Shahbaz Bhatti **("Petitioner/Accused")**, has assailed the Order dated 02.07.2024 **("Impugned Order")** passed by the learned Additional Sessions Judge, Islamabad-East **("Appellate Court")** whereby the Petition under section 497(5) Cr.P.C for cancellation of bail, filed by Respondent No. 1/Complainant has been accepted and bail granted to the Petitioner/Accused was recalled/cancelled.

2. The brief facts of the case as per contents of Petition are that Respondent No. 1/Complainant [Faiz Ul Hassan] got registered F.I.R No. 2110/22 under Sections 420, 468 and 471, Pakistan Penal Code, 1860 **("PPC")** at P.S Koral, against the Petitioner/Accused. The Petitioner/Accused applied for post arrest bail before the learned Judicial Magistrate and he was admitted to bail vide Order dated 16.12.2023. After the submission of challan, Respondent No.1/Complainant filed a Petition under Section 497(5), Cr.P.C for cancellation of bail granted to the Petitioner/Accused and same was accepted vide the Impugned Order passed by the learned Appellate Court. Being aggrieved of the Impugned Order, the Petitioner/Accused has filed the instant Petition.

3. The learned counsel for the Petitioner/Accused argued that material irregularity has been committed by the learned Appellate Court by recalling the bail of the Petitioner/Accused; that the Impugned Order is passed in hasty manner

without following requisite procedure necessary for issuance of direction to arrest any innocent person; that the Petitioner/Accused was not provided proper opportunity to peruse the available record about his cancellation of bail, so the procedure adopted by the learned Appellate Court was unwarranted by law and the Impugned Order is liable to be set-aside; and that the learned Appellate Court has not applied his judicial mind while passing the Impugned Order. Lastly, the learned counsel prayed that instant Petition may kindly be accepted and the Impugned Order may kindly be set-aside.

4. On the other hand, learned ADPP assisted by learned counsel for the Respondent No. 1/Complainant resisted to the instant Petition and prayed for its dismissal on the ground that the Impugned Order is a well-reasoned order and bail of the Petitioner/Accused was cancelled by the learned Appellate Court by keeping in view the facts and material available on record; and that the Impugned Order does not suffer from any illegality or irregularity and does not call for any interference.

5. I have heard learned counsel for the parties and perused the record with their able assistance.

6. The Petitioner/Accused was granted bail by the learned Judicial Magistrate on 16.12.2023, the Respondent/Complainant then moved an Application for the cancellation of bail before the learned Additional Sessions Judge, Islamabad on the ground that the learned Judicial Magistrate released the Petitioner/Accused on flimsy grounds without applying judicial mind and there is ample evidence available on record to connect the Petitioner/Accused with the commission of the offence. The Petitioner/Accused allegedly sold a plot file and received Rs.3,500,000/- from Respondent No. 1/Complainant, which on verification later on was found fake. The Petitioner/Accused is allegedly also involved in similar nature of cases i.e. F.I.R No.150/24 under Section 489-F PPC, F.I.R No.1213/23 under Section 489-F PPC, F.I.R No. 1926/24 under Section 489-F PPC, F.I.R No.1014/24 under Section 489-F PPC and F.I.R No. 255/24. It seems that the Petitioner/Accused is habitual and if he is released on bail, he will repeat the same offence and there is also likelihood of his absconsion. Wisdom is sought from the judgment of august Supreme Court of Pakistan passed in case titled *"Shameel Ahmed Vs. State* cited as **2009 SCMR 174**, the relevant portion of which is reproduced as under: -

> *"With regard to the contention that the bail should always be granted in cases not falling within the domain of prohibition clause of proviso to section 497, Cr.P.C. it is observed that it is not a rule of universal application. Each case has to been seen through its own facts and circumstances. The grant of bail, no doubt, is discretion granted to a Court, yet the exercise of it cannot be arbitrary, fanciful or perverse. If an order granting the bail has been obtained after suppressing necessary details of vital importance, the bail can be cancelled by the Court which had granted it. Petitioner who was involved in three previous cases of similar kind was prima facie found to be a habitual offender of issuing cheques and defrauding the people. Entering into a compromise, getting acquittal in one case and bail order having been issued in the third case, cannot be simply ignored at the time of grant of bail, because all these go to the root of the case."*

7. In the circumstances of the instant case, there is every probability of repetition of the offence, hence, the instant Criminal Revision Petition is **dismissed** with the direction to the learned Trial Court to conclude the trial expeditiously as charge in the instant case had been framed on 22.07.2024 and since then no prosecution witness has been recorded so far. However, Respondent No. 1/Complainant is also duty bound to appear and have his statement recorded to facilitate the conclusion of the trial. If he fails to appear before the learned Trial Court, the Petitioner/Accused shall be at liberty to file a fresh petition before this Court, which will be decided on its merits.

(MUHAMMAD AZAM KHAN)
JUDGE

Sajid/--