

[Supreme Court of Pakistan]

Present: Syed Mansoor Ali Shah and Ayesha A. Malik, JJ

RAB NAWAZ ---Petitioner

Versus

SHEHZAD HASSAN and others ---Respondents

Crl. P. No. 253-L of 2025, decided on 26th March, 2025.

(Against the order of Lahore High Court, Lahore dated 18.02.2025 passed in Crl. Misc.No. 5460-B of 2025).

Criminal Procedure Code (V of 1898)---

---S. 497(5)---Penal Code (XLV of 1860), Ss. 302, 427, 109 & 34---Constitution of Pakistan, Art. 185 (3)---Qatl-i-amd, mischief, abetment, common intention---Application for cancellation of bail, dismissal of---Petitioner/complainant was aggrieved of grant of post-arrest bail to respondent/accused by High Court---Held: Accused was charged for committing murder of the brother of complainant---Bail, though a concession granted to ensure the liberty of an accused pending trial, is not an unqualified right and can be withdrawn, if misused--Bail may be cancelled if the accused, after securing release, engaged in conduct that undermined the administration of justice---Such grounds included attempt to influence or intimidate witnesses, tampering with evidence, committing another offence while on bail, or violating conditions imposed by the Court---Furthermore, if the accused fails to appear before the Court without just cause, or if new facts come to light that materially altered the basis on which bail was granted, the Court may justifiably revoke the concession---However, the liberty of an individual must be balanced against the need to ensure a fair trial and uphold public confidence in the justice system---Other than the above, the principles evolved for examining a bail granting order for the purpose of cancellation, the Court usually interferes on two grounds: (i) when the impugned order is perverse on the face of it, or (ii) when the impugned order has been made in clear disregard of some principles of the law of bail---Perverse order is one that has been passed against the weight of the material on the record or by ignoring such material or without giving reasons; such order is also termed as arbitrary, whimsical and capricious---Courts are not to indulge in the exercise of a deeper appreciation of material available on record at the bail stage and are only to determine tentatively, by looking at such material, whether or not there exist any "reasonable grounds" for believing that the accused person is guilty of the alleged offence---None of the said grounds for cancellation of bail were attracted in the present case---Accordingly, leave to appeal was declined and the petition was dismissed, in circumstances.

Zaro v. State 1974 SCMR 11; Sidra Abbas v. State 2020 SCMR 2089; Farid v. Ghulam Hussan 1968 SCMR 924 and Khalid Saigol v. State PLD 1962 SC 495 rel.

Aqib Javed Malik, Advocate High Court for Petitioner (With permission of the Court).

Rana Abdul Majid, Additional Prosecutor General, Punjab for the State.

Respondents-in-person.

Date of hearing: 26th March, 2025.

ORDER

SYED MANSOOR ALI SHAH, J.---The petitioner seeks leave to appeal against the order dated 18.02.2025 whereby post-arrest bail was granted to respondent No.1 in case FIR No. 203/2023 dated 22.02.2023 registered at Police Station Bhalwal City, District Sargodha in respect of offences under Sections 302/427/109/34-P.P.C. The petitioner seeks cancellation of the same through the instant petition.

2. Briefly stated, the contents of the crime report reveal that the petitioner is alleged to have, on 22.02.2023 at approximately 11:00 a.m., acted in concert with a co-accused, both armed with weapons, and fired five shots, resulting in the murder of Asad Ahmad, the brother of the complainant.

3. The precise facts that formed the basis for grant of post-arrest bail to Respondent No. 1 are that the test identification parade was held on 25.09.2023 after a period of seven months of occurrence, therefore, the value of such a test identification parade can best be determined during trial and the recovery of Kalashnikov is at best a corroborative piece of evidence which cannot be singularly used to decline bail.

4. We have heard the learned counsel for the parties and gone through the record with their able assistance. The scope of the interference to be made by this Court in its appellate jurisdiction, in matters of cancellation of bail are well settled and hardly need reiteration. Bail, though a concession granted to ensure the liberty of an accused pending trial, is not an unqualified right and can be withdrawn, if misused. The law recognizes that bail may be cancelled if the accused, after securing release, engages in conduct that undermines the administration of justice. Such grounds include attempts to influence or intimidate witnesses, tampering with evidence, committing another offence while on bail, or violating conditions imposed by the court. Furthermore, if the accused fails to appear before the court without just cause, or if new facts come to light that materially alter the basis on which bail was granted, the court may justifiably revoke the concession. The guiding principle remains that the liberty of an individual must be balanced against the need to ensure a fair trial and uphold public confidence in the justice system.

5. Other than the above, the principles evolved for examining a bail granting order for the purpose of cancellation, the court usually interferes on two grounds: (i) when the impugned order is perverse on the face of it, or (ii) when the impugned order has been made in clear disregard of some principle of the law of bail.¹ A perverse order is the one that has been passed against the weight of the material on the record or by ignoring such material or without giving reasons;² such order is also termed as arbitrary, whimsical and capricious. While it is one of the elementary principles of the law of bail that courts are not to indulge in the exercise of a deeper appreciation of material available on record at the bail stage and are only to determine tentatively, by looking at such material, whether or not there exist any reasonable grounds for believing that the accused person is guilty of the alleged offence.³ None of these grounds for cancellation of bail are attracted in the present case. Consequently, we are not inclined to interfere in the impugned order of the High Court. Accordingly, leave to appeal is declined and this petition is dismissed.

MH/R-2/SC Petition dismissed.

¹ *Zaro v. State* 1974 SCMR 11.

² *Sidra Abbas v. State* 2020 SCMR 2089.

³ *Farid v. Ghulam Hussan* 1968 SCMR 924 and *Khalid Saigol v. State* PLD 1962 SC 495.

