

2004 S C M R 1160

[Supreme Court of Pakistan]

Present: Nazim Hussain Siddiqui, C.J. Javed Iqbal and Abdul Hameed Dogar, JJ

Criminal Petition No.73/K of 2002

NAZIR AHMAD---Petitioner

Versus

MUHAMMAD ISMAIL and another---Respondents

(On appeal from the order, dated 12-6-2002 of the High Court of Sindh, Circuit Court, Larkana, passed in Criminal Bail Application No.S/790 of 2001).

Criminal Petition No. 127/K of 2002

NAZIR AHMAD---Petitioner

Versus

ALI GUL and others---Respondents

(On appeal from the order, dated 27-9-2002 of the High Court of Sindh, Circuit Court, Larkana, passed in Criminal Bail Application No.570 of 2002).

Criminal Petition No.84/K of 2003

LUTUF ALI ---Petitioner

Versus

THE STATE --- Respondent

(On appeal from the order, dated 21-4-2003 of the High Court of Sindh, Circuit Court, Larkana, passed in Criminal Bail Application No. 108 of 2003).

Criminal Petitions Nos.73/K, 127/K of 2002 and 84/K of 2003, decided on 12th April, 2004.

(a) Criminal Procedure Code (V of 1898)---

---S. 497(5)---Penal Code (XLV of 1860), Ss.302/324/149--Constitution of Pakistan (1973), Art.185(3)---Cancellation of bail--Delay in conclusion of the trial had occasioned because of the adjournments sought on behalf of accused---Specific role of firing at both the deceased was attributed to the accused---Participation of accused in the occurrence was corroborated by the presence of so many fire-arm injures on the person of the deceased---Bail allowed to accused by High Court was cancelled in circumstances.

Shahnawaz and 2 others v. The State and another PLD 1994 SC 65 ref.

(b) Criminal Procedure Code (V of 1898)---

---S. 497(5)---Penal Code (XLV of 1860), Ss.302/324/149--Cancellation of bail---Principle---Strong and exceptional grounds are required for cancellation of bail---What has to be seen is whether order granting bail is patently illegal, erroneous, factually incorrect and has resulted in miscarriage of justice.

(c) Criminal Procedure Code (V of 1898)---

---S. 497---Penal Code (XLV of 1860), Ss.302/324/149---Constitution of Pakistan (1973), Art.185(3)---Bail, refusal of---Accused according to prosecution had actively participated in the

commission of the offence and caused fire-arm injuries to the deceased---Bail was declined to accused in circumstances.

Mazhar Ali B. Chohan, Advocate Supreme Court for Petitioner (in Criminal Petitions Nos.73/K and 127/K of 2002).

Nuruddin Sarki, Advocate Supreme Court and R.A. Qureshi, Advocate-on-Record for Respondent No.1 (in Criminal Petitions Nos.73/K, 127/K of 2002 and for Petitioner in Criminal Petition No.84/K of 2003).

Qazi Khalid Ali, Addl. A.-G., Sindh, for Respondent No.2 (in Criminal Petition No.73/K and 127/K of 2002).

Nemo for Respondent (in Criminal Petition No.84/K of 2003).

Date of hearing: 12th April, 2004.