

ORDER SHEET  
**IN THE HIGH COURT OF SINDH, KARACHI**

Present:  
 Mr. Justice Muhammad Iqbal Kalhoro  
 Mr. Justice Khalid Hussain Shahani

**Cr. Revision Application No.308 of 2025**  
 (Sarmad Ali Raza vs. The State)

**Cr. Revision Application No.309 of 2025**  
 (Ghaniullah vs. The State)

**Date of hearing**  
**& Order**      **16.04.2026**

M/s. Muhammad Haseeb Jamali, Aamir Nawaz Waraich, Haseebullah Panhwar, Shamsuddin, Ghulam Paparwar, Muhammad Hanif and Nisar Ahmed Malah, advocate a/w applicants  
 Mr. Ali Haider Salim, Addl: PG Sindh

**ORDER**

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**Muhammad Iqbal Kalhoro, J:-** FIRs No.80 & 81 of 2025, u/s 4/5 of the Explosive Substances Act, 1908, r/w section 7 ATA, 1997, were registered at Police Station CTD-Kemari on 01.11.2025 alleging that applicants were arrested on the said date on spy information from Machar Colony, Railway Track, near Islami Canta, within the jurisdiction of Police Station Dock, and from them allegedly one hand-grenade along with some explosive material were recovered. Hence, they were booked in the aforementioned cases. It is further alleged that they are linked with Sindhudesh Revolutionary Army (**SRA**), a proscribed organization.

2. The record shows that applicants applied for bail, which was granted to them by the Anti-Terrorism Court No.XIII, Karachi on 27.11.2025. However, the bail-granting order was challenged by prosecution through an application on next day viz. 28.11.2025 before the same Court. This application has been allowed through the impugned order dated 06.12.2025, and the bail granted to the applicants has been cancelled. The said order has been impugned here by the applicants in these connected revision applications.

3. Mr. Muhammad Haseeb Jamali, advocate for applicants has argued that before registration of FIRs, an application dated 28.10.2025 by a sister of applicant, namely, Ghaniullah was moved to the SHO of Police Station Ferozabad, alleging that her brother was taken away from hospital and detained by unknown persons belonging to law enforcement agencies. After that, she also filed a Constitutional Petition No.D-5318/2025 on 29.10.2025 seeking his recovery. While such petition and application were pending, the

present FIRs were registered against the applicants on 01.11.2025 i.e. after about four days of application moved by sister of applicant Ghaniullah, and shown arrested.

4. He has further argued that besides the petition filed against illegal detention of the applicants, various bar associations had passed resolutions condemning their illegal confinement, and in this regard Karachi Bar Association had also announced a long march. Per him, on the day of FIRs, since it was Sunday, the applicants were produced before the Duty Magistrate, who keeping in view the record of illegal detention of the applicants, widely highlighted through electronic and print media before registration of FIRs, and condemnation by various organizations, including civil society, discharged the applicants on an application moved by their advocate u/s 63 Cr.PC. However, the said order was challenged and was set aside subsequently, as a result, the applicants remained in custody. Thereafter, they filed an application for bail, which was granted.

5. Learned counsel has next argued that the bail was granted to the applicants under special provisions Section 21-D of the ATA, 1997, which starts with a non-obstante clause and excludes application of sections 435, 439, 497, and 498 PPC, etc. Hence, cancellation of bail provided u/s 497(5) Cr.PC is not allowed in ATC cases; once the bail is granted by ATC Court, it cannot cancel it but is required to hold expeditious trial and conclude it. Per him, since 21-D ATC is a special provision, which regulates granting of bail to the accused in ATC cases, the general provision of Section 497(5) is not applicable; it is settled principle of law that special law shall override the general law, hence bail granted u/s 21-D of the ATC Act 1997 cannot be cancelled u/s 497(5) Cr.PC. In order to support his contentions, he has relied upon the judgment in the case of *Malik Tariq Ayub*<sup>1</sup>. He has further argued that it is a settled principle of law that bail can only be cancelled on certain grounds, which, the Honourable Supreme Court, in the case of *Sami Ullah & antoher*<sup>2</sup> has already defined.

6. He further submits that there was no material before the trial Court that applicants were misusing concession of bail, tampering with evidence, or planning to abscond, yet the trial Court cancelled the bail. Further, the trial Court while cancelling the bail has simply observed in para-13 that *prima facie*, the bail order has been passed in a casual and cursory manner, which per learned counsel, cannot be counted as a ground for cancellation

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<sup>1</sup> 2022 MLD 2037

<sup>2</sup> 2020 SCMR 1115

of bail. He has also stated that even on merits, the case against the applicants requires further inquiry, as their alleged illegal detention and wrongful confinement is established from the record. When there are mitigating circumstances, the benefit of which, even at bail stage, has to be extended to the accused. He has lastly relied upon the cases of *ZHV Securities (Pvt.) Ltd.*<sup>3</sup> and *Ahsan Ali Dawach*<sup>4</sup>.

7. On the other hand, learned Add: PG Sindh has opposed the application on the ground that the applicants were arrested from the spot and some explosive material was recovered from their possession.

8. We have considered submissions of the parties and perused material available on record. It goes without saying that there are different principles regulating grant of bail and cancellation thereof. Once the bail is granted, it cannot be cancelled unless it is shown that bail granting order is perverse, contrary to law, against the facts and circumstances of the case or while granting bail, extraneous circumstances have been considered or the overwhelming evidence against the accused has been ignored by the Court.

9. Besides, cancellation of bail occurs when it is shown that accused has tampered with the evidence, or he has absconded away, or he has misused concession of bail by committing the same offence again. In this case, none of these grounds have been dilated upon or even considered by the trial Court as being the circumstances justifying cancellation of bail. The Court has simply observed that the offence alleged against the applicants is a heinous one carrying imprisonment for life, ignoring the fact that the gravity of offence had already been considered and yet the applicants were granted bail on merits on the ground that their case was of further enquiry. The same Court sat over its own order and set it aside against the settled principle of law, which prescribes only the appellate Court to have such mandate.

10. There is another principle, according to which, once the bail is granted, it cannot be challenged on merits before the same Court, but before the next higher forum. It is only when the grounds of tampering with the evidence, misusing concession of bail and likelihood of abscondence are alleged, the same Court can proceed with the application and decide it accordingly. Here, the trial Court did not even ponder over this fact and view

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<sup>3</sup> 2018 CLD 1338

<sup>4</sup> 2025 SCMR 1041

that cancellation of bail was sought against the applicants on merits, which once considered, cannot be reconsidered by the same Court. On merits, it is invariably the domain of next higher forum. Therefore, in our view, the same Court had no jurisdiction to entertain such application and to decide validity or otherwise of the bail granting order. The Supreme Court in the case of *Sami Ullah & another* has laid down following grounds for cancellation of bail;

- i) *If the bail granting order is patently illegal, erroneous, factually incorrect and has resulted into miscarriage of justice.*
- ii) *That the accused has misused the concession of bail in any manner.*
- iii) *That accused has tried to hamper prosecution evidence by persuading/pressurizing prosecution witnesses.*
- iv) *That there is likelihood of absconion of the accused beyond the A jurisdiction of court.*
- v) *That the accused has attempted to interfere with the smooth course of investigation.*
- vi) *That accused misused his liberty while indulging into similar offence.*
- vii) *That some fresh facts and material has been collected during the course of investigation with tends to establish guilt of the accused.*

11. None of aforesaid grounds have been opined by the Court to exist to give it power to cancel the bail. Further, learned trial Court, while cancelling the bail, has not even mentioned that under what provision of law, it was exercising power to cancel the bail. The Court appears to have been influenced by the allegations set out in the FIR, without even taking into account that material produced in defence, sufficient to make the case against the applicants to be of further inquiry, was available on the record. The Court failed to consider the well settled principles regulating cancellation of bail and has cancelled the bail without adverting to the relevant facts and circumstances in this regard.

12. *Prima facie*, before registration of FIRs, an application was moved by a sister of one of the applicants, Ghaniullah, and further their purported illegal detention was challenged before this Court in a constitutional petition. Alleged illegal detention of the applicants was also taken note of by various bar associations, who had condemned it by passing resolutions and organizing marches.

13. We, therefore, are of the view that there was sufficient material to show that the case against the applicants required further inquiry and the order whereby the bail was granted to the applicants did not suffer from any illegality to justify interference. Hence, we think that the impugned order cancelling the bail of the applicants is not sustainable. We therefore allow these applications, and set aside the impugned order

These Criminal Revision Applications are disposed of in above terms. Office to place a copy of this order in connected criminal revision application.

JUDGE

JUDGE

Rafiq/PA.