ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Cr. Misc. Application No.S-1218 of 2017

Date	Order with signature of Judge

For hearing of main case

Mr. Shabbir Ali Bozdar, Advocate for the Applicant
Mr. Ubedullah Ghoto, Advocate for Respondent No.1
Syed Sardar Ali Shah DPG

Date of hearing: 21.06.2019
Date of order: 24.06.2019

O R D E R

Adnan-ul-Karim Memon, J:- Through instant Criminal Miscellaneous Application, the Applicant has impugned the order dated 22.11.2017, passed by the learned 1st Civil Judge & Judicial Magistrate, Ghotki, in criminal case No Nil of 2017, whereby he while taking cognizance against the let off accused/private Respondents ordered them to join the proceedings and issued Bailable Warrants against them in the sum of Rs.50,000/- each instead of Non-Bailable Warrants. Applicant being aggrieved by and dissatisfied with aforesaid decision of the learned Magistrate has filed present Criminal Miscellaneous Application, on the premise that the learned Magistrate fell in error in relying upon the decision of the Honourable Supreme Court in the case of Sarwar and others Vs. The State and others (2014 SCMR 1762) and wrongly issued BWs in the sum of Rs.50, 000/- against newly joined accused/private Respondent instead of NBWs and sent up the case for Sessions trial.

2. Prosecution has set up the case against the private respondents and others on the premise that they committed brutal

murder of her husband and son on 5.9.2017. Such incident was reported to the police station A-Section Ghothki on the very day. Investigating officer investigated the matter and submitted his Report in the competent court by placing the names of private Respondents in Column No. II Challan. Finally the learned Magistrate passed the aforesaid order, compelling the applicant to file the instant Application on 26.12.2017.

3. Mr. Shabbir Ali Bozdar learned Counsel for the Applicant states that the impugned order is against the law to the extent of issuance of B.Ws instead of NBWs which has been passed in hasty manner while issuing BWs and granting bail in favour of the accused/respondents No.1 to 7 which is beyond his jurisdiction as in this case two persons have lost their lives from the hands of the accused persons as such the case is exclusively triable by the Court of Sessions. He further states that the applicant had moved an application before the learned Magistrate to set-aside the impugned order and issue NBW against the accused/respondents but the same was dismissed by relying upon the case of 'Sarwar vs. The State' reported in 2014 SCMR 1762, which is based on Private Complaint case, thus is quite distinguishable to the facts and circumstances of the present case. He also states that after registration of the FIR accused/respondent No.1 namely Kouro had moved his pre-arrest bail application No.1193 of 2017 before the learned I-Additional Sessions Judge Ghotki and interim bail was granted to him but later on the same order was recalled by the Court of 1st Additional Sessions Judge Ghotki vide order dated 24.11.2017, while observing that the specific role has been assigned to accused Kouro and sufficient material is available to

connect him with the commission of offence. He further submits that the capital punishment is involved in the present Crime as such the learned Magistrate has no power to issue the BWs and obtaining/accepting their bail in the sum of Rs.50, 000/-each as such the impugned order is liable to be set-aside, which is not warranted by law; that the finding arrived at by the learned Judicial Magistrate particularly releasing the private Respondents on pre-arrest bail by obtaining bond in Sessions trial is against the basic sprit of criminal procedure code, thus liable to be set-aside; that the private Respondents have to surrender before the trial Court as one of the Respondent No.1's pre-arrest bail under section 498, 498-A Cr.P.C. has already been dismissed by the learned trial court. Learned Counsel pointed out that when the accused appears either through summons or warrants or bail able warrants or on his own and if the offence is non-bail able then the provisions of section 497, Cr.P.C. would be attracted and accused could only be released after moving such application and grant of the same. If no such application is moved or no bail is granted by any competent Court either under section 497 or 498, Cr.P.C., as the case may be, then the accused is required to be remanded to judicial custody till the time a proper order is passed either by the trial Court or by the superior Court. Learned counsel in support of his arguments placed his reliance on the cases of *Mehboob Ali Shah v/s The State* (2014 MLD 1471), *Shafi Muhammad v/s The State* (2017 YLR Note 317), *Nadeem Asif v/s The State* (2013 YLR 1342), *Ghous Bux v/s The State* (2012 YLR 2609) *and Luqman Ali v/s Hazaro and another* (2010 SCMR 61).

4. On the other hand, Mr. Ubedullah Ghoto learned Counsel appearing for the Respondent No.1 while supporting the impugned order contended that the learned Magistrate has not committed any illegality by issuing BWs against the let off accused/private Respondents; that the private Respondents have been falsely involved in crime No.11 of 2017 registered for offences under section 302,114,148,149,337-H2 P.P.C; that the police had found them innocent, hence their names were put in Column No.2 of the Challan; that the learned trial Court had rightly ordered for their release and thereafter, accepting surety in the sum of Rs 50000/- each and that their release on the order of the learned Judicial Magistrate was legal and proper; that judgment of Honourable Supreme Court passed in the case of Luqman Ali vs. Hazaro and another (2010 SCMR 61) was overruled by another judgment of Honourable Supreme Court passed in the case of 'Sarwar vs. The State' reported in 2014 SCMR 1762; that the learned Judicial Magistrate has rightly followed the principles of law as enunciated by Honourable Supreme Court of Pakistan in the aforesaid judgment. Learned counsel in support of his contention has referred section 91 Cr.P.C.

5. Syed Sardar Ali Shah, DPG has not supported the impugned order on the analogy that the learned Magistrate cannot take bail of accused in session trial, and it is for the learned Session Court to issue NBWs, thus he erroneously issued BWs against the accused to face Sessions trial; that the learned Court below was not justified in releasing the accused merely on accepting surety without looking into the scope of section 497 read with section 498, Cr.P.C., that an accused person in a non-bail

able offence can be released on bail only on the grounds mentioned in section 497, Cr.P.C. if produced in custody, if he is out of judicial custody he has to apply for pre-arrest bail from the superior courts; that the order of the learned Court below was not in accordance with law. He lastly prayed that the respondent may be directed to surrender before the trial Court immediately or he may move an application for grant of bail under section 498-A Cr.P.C., which shall be decided in accordance with law and merits of the case.

6. I have heard learned Counsel for the parties and perused the material available record and case law cited at the bar.

7. The learned Judicial Magistrate vide order dated 22.11.2017 has expressed his view point in the following order:-

> "Heard Perused file I/O let off seven nominated accused persons by relying over the affidavits and statements of private/independent witnesses who have no evidentiary value at this stage as held by Honourable High Court in case of "Bakhsh Ali V/S The State (2013 YLR 1984) and that plea of alibi has no evidentiary value at the stage of investigation. Even accused Kouro and Jogi are nominated with specific role who cannot be let off on the statements of his own witnesses. Hence all let off accused persons are joined. Repot accepted. Issue NBWs against absconders and BWs in the sum of Rs.50, 000/- against newly joined accused and sent up after formal proceedings being Sessions trial."

8. The Applicant being aggrieved by and dissatisfied with the aforesaid order filed an application for setting aside the order dated 22.11.2017 in respect of accepting the surety of accused Kouro Khan and others. The learned Magistrate while disagreeing with the contention of the learned Counsel passed the order dated 12.12.2017.

9. In order to appreciate the submissions advanced and to answer the opinion expressed in the impugned order. The issue before this court is very simple in its nature, which is as under:-

> Whether the Judicial Magistrate is empowered under section 190 Cr.P.C to pass an order by issuing bail able warrants of accused in non-bail able offence, exclusively triable by the Court of Sessions?

10. I queried from the learned Counsel for the Respondent No.1 to justify the action of learned Judicial Magistrate to release the private Respondents on pre-arrest Bail by obtaining his Bail bond in the sum of Rs.50, 000/- on the premise that the aforesaid powers to release an accused are the powers of sessions court as provided under section 498-A Cr.P.C, even otherwise he has no powers to release an accused in Murder case. He replied to the query and relied upon the decision rendered by the honorable Supreme Court in the case of *Sarwar and others v/s The State and others* (2014 SCMR 1762) and argued that in paragraph 30 of the aforesaid judgment, the Honourable Supreme Court has clarified the legal position of the case, thus the case of the Respondent No.1 falls within the ambit of the judgment as discussed supra.

11. I posted another question to him that there is no cavil to the proposition set forth by the Honourable Supreme Court in the case of Sarwar and others Vs. The State and others (2014 SCMR 1762), as the decision deals with the case emanated from a private Complaint case as provided under section 200 Cr.P.C. However, in the present proceedings, the case of the applicant is emanated from challan case, which is quite different from Private Complaint case, on the premise that the learned Judicial Magistrate has exercised the powers of Sessions court by obtaining his bail bond

in Non-Bail able offence, which amounts granting Bail before Arrest. He reiterated his submission as discussed in the preceding paragraphs.

12. To appreciate the reasoning of learned Judicial Magistrate, it is expedient to have a look at the order dated 12.12.2017 passed by the Judicial Magistrate. An excerpt of the order is reproduced as under:-

> "By this order I intend to dispose of an application filed by learned counsel for complainant on her behalf for setting aside the order dated 22.11.2017 in respect of accepting the surety of accused Kouro Khan.
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> Learned counsel for complainant submitted that accused Kouro was specifically nominated in the instant double murder case and his bail application was also dismissed by Hon'able 1st Additional Sessions Judge Ghotki vide order dated 24.11.2017. He further argued that in the light of case Luqman vs. Hazaro (2010 SCMR 611) the NBWs of accused should have been issued but this Court issued bail able warrants of accused in the sum of Rs.50,000/- and provided extra ordinary relief to accused which is against the jurisdiction of this Court. He further submitted that accused persons are threatening to complainant as well as her witnesses hence said order may be recalled and surety may be rejected.
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> Heard and perused the file. The record shows that I/O kept the names of seven accused persons under column-II being innocent including accused Kouro Khan. This Court while accepting Challan joined those all seven accused persons and ordered to issue bail able warrants in the sum of Rs.50, 000/- against those newly joined accused persons vide order dated 22.11.2017 which is still in the field and has not been challenged by anyone before higher forum and in the presence of said order this Court was bound to accept surety of accused as required in pursuance of said order. It has been argued that in the light of 'Luqman vs. Hazaro' case (2010 SCMR 611) the NBWs had to be issued against accused persons but it appears that learned counsel for accused has no knowledge that said judgment of Honourable Supreme Court was overruled by another judgment of Honourable Supreme Court passed in the case of 'Sarwar vs. The State' reported in 2014 SCMR 1762 hence this Court has to follow the current principles of law as interpreted by Honourable Supreme Court of Pakistan.
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> In view of above discussion there is no substance or merit in this application hence same is dismissed."

13. Much emphasis has been laid on the decision rendered by the Honourable Supreme Court in the case of Sarwar and others

supra. The honorable Supreme Court has held at paragraph No.30 as under:-

> "30. As a result of the discussion made above we hold that the law propounded by the Lahore High Court, Lahore in the case of Mazhar Hussain Shah v. The State (1986 PCr.LJ 2359) and by this Court in the cases of Reham Dad v. Syed Mazhar Hussain Shah and others (Criminal Appeal No. 56 of 1986 decided on 14-1-1987) and Syed Muhammad Firdaus and others v. The State (2005 SCMR 784) was a correct enunciation of the law vis-a-vis the provisions of sections 204 and 91, Cr.P.C. and it is concluded with great respect and veneration that the law declared by the High Court of Sindh, Karachi in the case of Noor Nabi and 3 others v. The State (2005 PCr.LJ 505) and by this Court in the case of Luqman Ali v. Hazaro and another (2010 SCMR 611) in respect of the said legal provisions was not correct. As held in the cases of Mazhar Hussain Shah, Reham Dad and Syed Muhammad Firdaus (supra) the correct legal position is as follows:--
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> (i) A process is issued to an accused person under section 204, Cr.P.C. when the court taking cognizance of the offence is of the "opinion" that there is "sufficient ground" for "proceeding" against the accused person and an opinion of a court about availability of sufficient ground for proceeding against an accused person cannot be equated with appearance of "reasonable grounds" to the court for "believing" that he "has been guilty" of an offence within the contemplation of subsection (1) of section 497, Cr.P.C. Due to these differences in the words used in section 204 and section 497, Cr.P.C. the intent of the legislature becomes apparent that the provisions of section 91, Cr.P.C. and section 497, Cr.P.C. are meant to cater for different situations.
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> (ii) If the court issuing process against an accused person decides to issue summons for appearance of the accused person before it then the intention of the court is not to put the accused person under any restraint at that stage and if the accused person appears before the court in response to the summons issued for his appearance then the court may require him to execute a bond, with or without sureties, so as to ensure his future appearance before the court as and when required.
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> (iii) If in response to the summons issued for his appearance the accused person appears before the court but fails to submit the requisite bond for his future appearance to the satisfaction of the court or to provide the required sureties then the accused person may be committed by the court to custody till he submits the requisite bond or provides the required sureties.
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> We may add that
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> (iv) If the process issued by a court against an accused person under section 204, Cr.P.C. is through a warrant, bail able or non-bail able, then the accused person may be under some kind or form of restraint and, therefore, he may apply for his pre-arrest bail if he so chooses which may or may not be granted by the court depending upon the circumstances of the case but even in such a case upon appearance of the accused person before the court he may, in the discretion of the court, be required by the court to execute a bond for his future appearance, with or without sureties, obviating the requirement of bail.
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> 31. Having declared the correct legal position in respect of the provisions of sections 204 and 91, Cr.P.C. we direct the Office of this Court to fix the titled appeals and petitions for hearing before appropriate Benches of the Court for their decision on the basis of their respective merits in the light of the law declared through the present judgment."

14. The Honourable Supreme Court has dealt with the issue of bail in a criminal case, "be it a Challan case or a case arising out of a private complaint, is relevant only where the accused person concerned is either under actual custody/arrest or he genuinely and reasonably apprehends his arrest on the basis of some process of the law initiated either by a court or by the police. It is but obvious that issuance of process by a court through summons for appearance of an accused person before the court neither amounts to arrest of the accused person nor it can ipso facto give rise to an apprehension of arrest on his part and, thus, such accused person cannot apply for pre-arrest bail and even if he applies for such relief the same cannot be granted to him by a court".

15. To answer the proposition as setout above, whether the learned Magistrate can exercise the jurisdiction of a court of Sessions to allow pre-arrest bail to private Respondents by taking bond in a non-bailable offence. The following are the basic conditions to be fulfilled before exercising the jurisdiction under section 498, and 498-A Cr.P.C. An excerpt of the section 498, and 498-A Cr.P.C is as under:-

> "498. Power to direct admission to bail or reduction of bail. The amount of every bond executed under this Chapter shall be fixed with due regard to the circumstances of the case, and shall not be excessive; **and the High Court or Court of Session may**, in any case, whether there be an appeal on conviction or not direct that any person be admitted to bail, or that the bail required by police officer or Magistrate be reduced.
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> 498-A. No bail to be granted to a person not in custody, in Court or against whom no case is registered etc. Nothing in section 497 or section 498 shall be deemed to require or authorize a Court to release on bail, or to direct to be admitted to bail any person who is not in custody or is not present in Court or against whom no case stands registered for the time being and an order for the release of a person on bail, or direction that a person be admitted to bail shall be effective only in respect of the

case that so stands registered against him and is specified in the order or direction.

Basic Conditions

"(a) that there should be a genuine proved apprehension of imminent arrest with the effect of virtual restraint on the petitioner;

(b) that the petitioner should physically surrender to the court;

(c) that on account of ulterior motives, particularly on the part of the police, there should be apprehension of harassment and undue irreparable humiliation by means of unjustified arrest;

(d) that it should be otherwise a fit case on merits for exercise of discretion in favour of the petitioner for the purpose of bail. In this behalf the provisions contained in section 497, Cr.P.C. would have to be kept in mind;

(e) that unless there is reasonable explanation, the petitioner should have earlier moved the Sessions Court for the same relief under section 498, Cr.P.C."

16. The Honourable Supreme Court, on the aforesaid proposition has held as under:-

"If a person, who appears before the High Court under section 497, is taken to be in the custody of the Court merely because of his appearance, it is difficult to imagine what would happen to him if the Court rejects his application for bail. He appeared in Court as a free man. Is the Court bound to keep him in custody and send him to jail simply because it rejects his application? If so, under what provision of the Code? The failure of his application would therefore deprive a suspected person of his freedom. What is the Court to do with him is another difficult question? He comes into Court protesting that he is innocent and there is no case against him. The Court decides not to accept his application for bail. He cannot be required to execute any bail bonds under the provisions of section 499 of the Code. It is clear, therefore, that the making of an application for bail and his presence in Court cannot be regarded as appearance under section 497 of the Code. In fact, in Hidayat Khan's case (supra) it was pointed out by the learned Judges of the High Court that nowhere in law was there to be found any warrant for the plea that a Court possesses any power to take into custody a person offering himself for the purpose if there be no justification for the Court to exercise the power of taking such person into custody. When a person appears before the High Court merely to present an application for bail, without any warrant for his arrest having been issued, he is not appearing in respect of any offence of which the High Court is taking cognizance at the time and his appearance before the Court cannot be regarded as a surrender to custody."

17. The Honourable Supreme Court further observed on the issue in hand as under:-

> The provisions of section 498-A, Cr.P.C. tend to create an impression that the provisions of sections 497 and 498, Cr.P.C. may be relevant only to cases registered (presumably under section 154, Cr.P.C.) and it may be difficult for the purposes of section 498-A, Cr.P.C. to equate a private complaint, and that too only at the stage of issuance of process under section 204, Cr.P.C. through summons, with a case registered under section 154, Cr.P.C. If the impression so created is correct then the concept of bail may be alien particularly to such a stage of a private complaint and it may be a bond mentioned in section 91, Cr.P.C. which may be the only recourse possible in such a case. It may be true that the true scope of the provisions of section 498-A, Cr.P.C. is yet to attain judicial clarity in this specific regard but at the same time it is equally true that even this aspect of the matter had failed to receive any consideration at all in the cases of Noor Nabi and Luqman Ali.
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> 29. At this stage a clarification may be in order. In his capacity as a Judge of the Lahore High Court, Lahore and speaking for a Full Bench of that Court one of us (Asif Saeed Khan Khosa, J.) had observed in the case of Khizer Hayat and others v. Inspector-General of Police (Punjab), Lahore and others (PLD 2005 Lahore 470) as under:--
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> "The powers available during an investigation, enumerated in, Part V, Chapter XIV of the Code of Criminal Procedure, 1898 read with section 4(1)(1) of the same Code, include the powers to arrest an accused person and to effect recovery from his possession or at his instance. Such powers of the investigating officer or the investigating person recognize no distinction between an investigation in a State case and an investigation in a complaint case. In the case of Noor Nabi and 3 others v. The State 2005 PCr.LJ 505 a learned Judge -in-Chamber of the Honourable Sindh High Court has already clarified that section 91, Cr.P.C. deals only with procuring attendance of a person before the Court and after his availability before the Court the matter of his admission to bail or not rests in the hands of the Court and that the impression about automatic admission of an accused person to bail in a case of private complaint is erroneous."

18. I have noticed that the Honourable Supreme Court in the aforesaid judgment has decided the following proposition of law arising out of a Private Complaint case and finally settled the issue by rendering elaborate judgment on the subject as discussed supra.

> "The question as to whether after having been summoned by a trial court under section 204, Cr.P.C. to face a trial in connection with a private complaint the person so summoned is required only to furnish a bond, with or without sureties, under section 91, Cr.P.C. for his future appearance before the trial court or he is to apply for pre-arrest bail under section 498, Cr.P.C. is a question which has remained a subject of some controversy in the past and, therefore, on 20.01.2012 this Court had granted leave to appeal in some of the

> present matters so that the issue may be conclusively resolved through an authoritative pronouncement."

19. To elaborate further on the issue of Private complaint case and Challan case, generally the complaint under section 200 Cr.P.C. is basically a petition of protest against the accused and Investigating Agency for their misuse of process of law, and when the mentioned above do the practice not close to the facts and circumstances of case then complainant has no other remedy except to knock at the door of competent Court for the sake of dispensation of justice an redressal of his/her grievance. And challan case is that arising out of F.I.R registered under section 154 of Code of Criminal Procedure, and F.I.R can only be registered when a cognizable offence is made out and F.I.R in bail able offence can only be registered by the permission of Magistrate and not otherwise. Therefore a police officer can take bail in bail able offence and the Magistrate can grant bail in bail able offence, if the offence is non-bail able, the accused can be taken into custody and if brought before the competent court by showing his arrest by police or if he voluntarily surrenders before the Magistrate, thus the Magistrate cannot grant pre arrest bail to him or take bailable bod in offences exclusively triable by the court of sessions as the law restricts him to do so, on the point of jurisdiction. It would be appropriate to reproduce relevant provisions of Code of Criminal Procedure 1898:-

> "200. Examination of complainant: A Magistrate taking, cognizance of an offence on complaint shall at once examine the complainant upon oath, and the substance of the examination shall be reduced to writing and shall be signed by the complainant, and also by the Magistrate: Provided as follows:
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> (a) when the complaint is made in writing, nothing herein contained shall be deemed to require a Magistrate to

examine the complainant before transferring the case under section 192 [or sending it to the Court of Session];

(aa) when the complaint is made in writing nothing herein contained shall be deemed to require the examination of a complainant in any case in which the complaint has been made by a Court or by a public servant acting or purporting to act in the discharge of his official duties;

(b) [Omitted A.O., 1949, Sch.];

(c) when the case has been transferred under section 192 and the Magistrate so transferring it has already examined the complainant, the Magistrate to whom it is so transferred shall not be bound to re-examine the complainant.

202. Postponement of issue of process:

(1) Any Court, on receipt of a complaint of an offence of which it is authorized to take cognizance; or which has been sent to it under section 190, subsection (3), or referred to it under section 191 or section 192, may, if it thinks fit, for reasons to be recorded, postpone the issuance of process for compelling the attendance of the person complained against, and either inquire into the case itself or direct any inquiry or investigation to be made by [any Justice of the Peace or by] a police officer or by such other person as it thinks fit, for the purpose of ascertaining the truth or falsehood of the complaint:

Provided that save, where the complaint has been made by a Court, no such direction shall be made unless the complainant has been examined on oath under the provisions of section 200.

(2) A Court of Session may, instead of directing an investigation under the provisions of subsection (1), direct the investigation to be made by any Magistrate subordinate to it for the purpose of ascertaining the truth or falsehood of the complaint.

(3) If any inquiry or investigation under this section is made by a person not being a Magistrate [or Justice of the Peace] or a police officer, such person shall exercise all the powers conferred by this Code on an officer-in-charge of a police station, except that he shall not have power to arrest without warrant.

(4) Any Court inquiring into a case under this section may, if it thinks fit, take evidence of witnesses on oath].

203. Dismissal of complaints: [The Court], before whom a complaint is made or to whom it has been transferred, [or sent] may dismiss the complaint, if, after considering the Statement on oath (if any) of the complainant and the result of the investigation or inquiry (if any) under Section 202 there is in his judgment no sufficient ground for proceeding. In such cases he shall briefly record his reasons for so doing.

204. Issue of process:

(1) If in the opinion of a [Court] taking cognizance of an offence there is sufficient ground of proceeding, and the case appears to be one in which, according to the fourth column of the Second Schedule, a summons should issue in the first instance, [it] shall issue his summons for the attendance of the accused. If the case appears to be one in which, according to that column, a warrant

> should issue in the first instance, [it] may issue a warrant, or, if [Court] or if [it] thinks fit, a summons, for causing the accused to be brought or to appear at a certain time before such [Court] if as if it has no jurisdiction itself some other Court having jurisdiction.
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> (2) Nothing in this section shall be deemed to affect the provisions of section 90.
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> (3) When by any law for the time being in force any process-fees or other fees are payable, no process shall be issued until the fees are paid, and if such fees are not paid within a reasonable time, the Court may dismiss the complaint.

20. I have noticed that the learned Magistrate has granted Bail in a non-bail able offence, more particularly in offences exclusively triable by the court of sessions, by accepting their surety in the sum of Rs. 5, 0000/-each. The law is very clear on the aforesaid proposition. Prima-facie the learned Magistrate has fell in grave error by assuming the jurisdiction by applying the ratio of the judgment rendered by the Honourable Supreme Court as discussed supra in the present case for the simple reason that the Criminal Procedure Code defines bail as a legal act of allowing the release of a person from custody or prison and delivering into the hands of sureties who guarantee his or her appearance at the police station or the court on the appointed day on the analogy that the accused is presumed innocent until proven guilty at trial. Therefore, as a general rule, after being charged and before trial, the accused may apply to the court for bail. It is whether suspect or an accused may be released on bail, it truly depends on what offences he or she is committing, whether bail able or non-bail able offences. It is noted that the Magistrate had nothing to do with the merits of the case and was not competent to grant bail or pass any other order which could be passed by the Sessions court my view is supported by the decision rendered by the Honorable Supreme

Court in the case of Nasreen Bibi vs. Farukh Shahzad and others (2015 SCMR 825).

21. In this view of the matter, the decision taken by the learned Magistrate by releasing the accused by obtaining their Bail bond in the sum of Rs.50, 000/- is erroneous and is of no legal effect.

22. As a result of above discussion, this Criminal Miscellaneous Application is allowed and the impugned order dated 22.11.2017 to the extent of releasing the accused by obtaining their Bail bond in the sum of Rs.50,000/- is set aside, leaving an aggrieved party to seek an appropriate remedy in accordance with law.

JUDGE

Suleman Khan/PA