

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**

Cr. Misc. Appln. No.S-661 of 2023

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE(S)</b>
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1. For orders on MA-9155/2023.
2. For orders on office objections.
3. For orders on MA-9156/2023.
4. For hearing of main case.

**18.09.2023.**

Mr. Muhammad Sachal R. Awan, Advocate for applicant.

**ORDER**

**ARSHAD HUSSAIN KHAN, J.-** This is an application under Section 497 (5) Cr.P.C filed by applicant / complainant seeking cancellation of bail granted to respondents 1 to 4 / accused by learned Additional Sessions Judge, Matiari in Criminal Bail Application No.688 of 2023 (Re-Qadir Bux alias Qadri & others v. The State), arising out of Crime No.28 of 2023 registered at Police Station Sekhat District Matiari, under Sections 324, 334, 506/2m 114, 34 PPC in terms of the order dated 08.09.2023.

2. The facts of the case are already stated in the memo of application, therefore, there is no need to reproduce the same to save precious time of the Court.

3. Learned Counsel for the applicant has contended that the respondents / accused were nominated in the FIR with specific roles but the learned trial Court without appreciating the record has granted bail to them; that learned trial Court has wrongly observed that the FIR was delayed but actually it was not the burden upon the complainant-injured; that the learned trial Court has confirmed the bail of the applicant without hearing the complainant; that the offence committed by the applicant falls within the ambit of prohibitory clause of Section 497 Cr.P.C. Lastly, the learned Counsel has prayed for cancellation of bail.

4. Heard and record perused.

5. Perusal of record it reveals that after registration of a case the respondents / accused moved an application for grant of pre-arrest bail before the trial Court. At the first instance, the trial Court granted ad-interim pre-arrest bail to them and subsequently their ad-interim pre-arrest bail was confirmed on 08.09.2023 being impugned herein. I have gone through the impugned order from which the relevant portion for the sake of convenience is reproduced hereunder:-

“6. I have considered the submissions of the parties and gone through the material available on the record. It is apparent from the record that the FIR was lodged after the delay of more than one and half months. Although the FIR was registered under the direction of the Court on application u/s. 22 A & B Cr.P.C. yet the complainant moved the said application with delay which has not been explained in FIR. Perusal of the FIR shows that the allegation against applicant/accused Saindad is only of instigation, while the allegation against applicants / accused Mitho and Ali Gul were of general nature. Although they were shown to be armed with pistols, yet did not cause any injury to the complainant. Per FIR, it was the allegation against applicant / accused Qadir Bux that he caused firearm injury to the complainant. On the other hand, the provisional MLC shows that during examination the MLO found the injury as accidental rather than the assault. In the said scenario, the guilt of applicants/accused at this stage requires further enquiry. Moreover, it was the main contention of the learned advocate of the accused that prior to this, applicant/accused Ali Gul lodged FIR bearing Crime No.40 of 2020 against the brothers of complainant namely Bashir and Badal and in the said case, they were convicted by the court. In support of said contention, he produced the copy of judgment passed in that case. Keeping in view the said position, possibility of mala fide on the part of complainant at this stage cannot be ruled out. Applicants/accused have voluntarily surrendered before the court and have not misused the concession of interim pre-arrest bail.

3. Perusal of the above impugned bail order of the learned trial Court reflects that FIR was delayed without plausible explanation and there were general allegations against the accused. The reasons as agitated by the trial Court show that case of the respondents / accused purely falls within the ambit of further inquiry as provided by Section

497(2) Cr.P.C. Learned Counsel for the applicant / complainant has failed to agitate any ground whereby bail of the respondents / accused may be considered to be recalled. It is settled that any person if comes before the Court for cancellation of bail of any accused has to show strong and cogent reasons for such cancellation. The learned Counsel for the applicant / complainant is unable to advance any ground and/or reason leading the cancellation of bail.

6. In view of above, while relying upon the case of MUHAMMAD AZHAR v. DILAWAR (2009 SCMR 1202), I am inclined to observe that the impugned order dated 08.09.2023 passed by the trial Court is absolutely correct and without any error; hence, the same needs not to be interfered with. This application being meritless is dismissed in limine.

JUDGE

Shahid