

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

Cr. Misc. Appln. No.S-665 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
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1. For orders on MA-9190/2023.
2. For orders on office objections.
3. For orders on MA-9191/2023.
4. For hearing of main case.

18.09.2023.

Syed Shahzad Ali Shah, 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 5 / accused by learned 2nd Additional Sessions Judge, Tando Allahyar in Criminal Bail Application No.989 of 2023 (Re-Ahmed Ali alias Dado & others v. The State), arising out of Crime No.41 of 2023 registered at Police Station Mashaikh Hoti District Tando Allahyar, under Sections 324, 337-A(i), 337-F(i), 504, 147, 148, 149 PPC vide order dated 16.08.2023.

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; that the accused attached upon the complainant and they with common intention caused severe injuries to the injured; that the accused after obtaining bail have shown themselves aggressors upon the complainant / applicant and are issuing them threats, as such, the complainant party has serious apprehension of repeating the offence. He; therefore, prays for setting aside the impugned order by recalling their bail. In support of his arguments, learned counsel has relied upon the cases of MUKHAR AHMED v. The STATE and others (2016 SCMR

2064), Haji SHAH BEHRAM v. The State and others (2021 SCMR 1983), AURANGZEB v. The STATE and others (2022 SCMR 1229) and GHULAM QADIR v. The STATE (2022 SCMR 720).

4. Heard and record perused.

5. Perusal of record it reveals that instant FIR was registered against the respondents / accused. Upon registration of the case they moved application for grant of pre-arrest bail before the trial Court. The trial Court initially granted ad-interim pre-arrest bail to them on 20.07.2023 and subsequently their ad-interim pre-arrest bail was confirmed on 16.08.2023 which has been impugned by way of instant application. 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 above submissions of the learned counsels for the parties and have gone through the record available. I find that no doubt, the applicants/accused persons are nominated in the F.I.R but no specific role has been attributed to the applicants/accused by the complainant in FIR. Record further shows that the allegations against the applicants/accused are general in nature. Moreover, it is pertinent to mention that the alleged incident was occurred on 03.07.2023 and the very next day the provision medico-legal certificate of injured Ghulam Hussain was issued by the medical officer concerned vide dated 04.07.2023, despite that the FIR was registered by the complainant on 17.07.2023 after an inordinate delay of 13 days, for which no plausible explanation has been furnished by the complainant. Therefore, in the circumstances, false implication of the applicants/accused after deliberation and consultation cannot be ruled out”.

6. After perusal of the above impugned order it reflects that FIR was delayed for about 13 days without any plausible explanation and besides there appears 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 show any ground / reason 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. The case law cited by the learned Counsel in support of his arguments is distinguishable to the case of the present accused; hence, cannot be relied upon for the sake of present application as this is a clear case of further inquiry with non-specific roles of the accused.

7. In view of above, while relying upon the case of MUHAMMAD AZHAR v. DILAWAR (2009 SCMR 1202), I am inclined to say that the impugned bail order dated 16.08.2023 passed by the trial Court is absolutely correct and does not warrant any interference; This miscellaneous application being devoid of any merits is dismissed in limine.

JUDGE

Shahid