

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. Misc. Appln. No.S-49 of 2025

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
-------------	---

1. For orders on MA-578/2025
2. For orders on office objections.
3. For orders on MA-579/2025
4. For hearing of main case.

31.01.2025.

Mr. Abdul Mueed Shaikh, Advocate for
applicant/complainant.

ORDER

ABDUL HAMID BHURGRI, J.- The applicant / complainant through the captioned Criminal Miscellaneous Application under Section 497 (5) Cr.P.C seeks cancellation of bail granted to respondents 1 to 4 by learned Additional Sessions Judge, Hala in Cr. Bail Application No.1053 of 2024 (Re-Farooque Domki Baloch & another v. The State), arising out of Crime No.145 of 2024 registered at Police Station Saeedabad, under Sections 506/2, 457, 337-A(i), 504 PPC vide order dated 30.12.2024.

2. The facts of the case are already stated in the memo of this application, therefore, there is no need to reproduce the same for the sake of brevity.

3. Learned Counsel for the applicant contends that the respondents / accused after granting bail by the trial Court on are misusing the concession of bail by issuing threats to the applicant / complainant. He further submits that the respondents / accused were nominated in the promptly lodged FIR with specific roles. He next submits that the respondents / accused are criminal type of persons hence, any untoward incident may occurred, however, the learned trial Court by ignoring the same and without considering the record has granted bail to the accused. He prays that bail of the accused may be recalled.

4. I have heard the learned counsel for the applicant and have gone through the material available on record.

5. Record reflects that after registration of case the accused moved an application for grant of pre-arrest bail before the learned trial Court, who granted ad-interim pre-arrest bail to them and later on their interim pre-arrest bail was confirmed vide order dated 30.12.2024, which is impugned. I have also gone through the impugned order which reflects that the pre-arrest bail was granted to respondents/accused on the grounds that FIR was delayed about seventeen days without plausible explanation and all sections applied in the FIR are bailable except sections 506/2 & 457 PPC which will be determined at the time of trial. Further, the alleged offences cited in the FIR do not fall within the prohibitory clause and grant of bail in such like cases is a rule; and, that there was a dispute over children quarrel between the parties, as disclosed in the memo of FIR as well as trial Court's order. Hence, the case of the accused / respondents falls within the ambit of Section 497(2) Cr.P.C. It is settled law that the principle for granting bail and those for cancellation of bail is altogether different. The strong and cogent reasons are required for recalling of bail granting order. For instance if the bail granting order is perverse or disregard to the settled principle regulating grant of bail. The learned Counsel for the applicant / complainant is unable to demonstrate the above settled principle governing the cancellation of bail. The Honorable Supreme Court in the case of MUHAMMAD AZHAR v. DILAWAR (2009 SCMR 1202) has observed as under:-

"6. It needs no reiteration that considerations for the grant of bail are quite distinct from the consideration for cancellation of bail. Once bail has been granted by a competent Court of law strong and exceptional grounds are required for cancelling the same, as held by this Court on a number of occasions. It is to be seen as to whether order granting bail is patently, illegal, erroneous, factually incorrect and has resulted in miscarriage of

justice. Considering the case of the respondent for grant of bail on the above touchstone, we are of the view that learned High Court has rightly reached the conclusion and no exception can be taken to it. The respondent is on bail since 26-1-2009 and he is not shown to have misused the concession of bail. He is entitled to remain on bail "

6. In my tentative assessment, the grounds for cancellation of bail as agitated by learned Counsel for the complainant could only be thrashed out at the time of recording evidence of the parties. Since the trial is yet to begin thus no fruitful result will come out to recall the pre-arrest bail order dated 30.12.2024.

7. In view of the above, the order passed by the trial Court is not needed to be interfered with. In such circumstances, the instant application for cancellation of bail is dismissed in limine.

JUDGE

Ahmed/Pa,