

IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Criminal Misc. Application No.S-26 of 2025

Applicant : Mst. Nawab Khatoon w/o Lal Dino Channo
Through Mr. Muhammad Aslam Jatoi, advocate

Respondent/State : Through Mr. Nazir Ahmed Bhangwar, DPG

Date of hearing : 07.05.2025

Date of Order : 07.05.2025

ORDER

Jan Ali Junejo, J:- The present Criminal Miscellaneous Application has been filed before this Court, by the applicant/complainant Mst. Nawab Khatoon, who seeks cancellation of the pre-arrest bail, granted to accused/respondent No.1, Din Muhammad, by the learned Additional Sessions Judge-IV, Larkana, vide Order dated: 28.12.2024 (hereinafter referred to as the “*Impugned Order*”).

2. On 20.02.2022, the applicant/complainant Mst.Nawab Khatoon, lodged a report at P.S. Rehmatpur, alleging the abduction of her daughter Mst. Saira, by the accused/respondent No.1 Din Muhammad and others, for offence under Section 365-B PPC, based on the complaint. The investigation revealed that the accused, including Din Muhammad, had abducted and detained the daughter of the complainant. The respondent Din Muhammad, filed a pre-arrest bail application before the Sessions Court which was transferred to the Court of learned Additional Sessions Judge-IV, Larkana, who granted bail on 28.12.2024. The applicant/complainant now seeks the cancellation of his bail alleging misuse of the concession and the absence of cogent reasons for granting bail.

3. Learned counsel for the applicant submits that the impugned order granting pre-arrest bail to the respondent No.1 is without merit and contrary to law. The trial court did not record sufficient reasons for granting bail, and the order is based on arbitrary reasoning. The counsel further contends that learned trial court failed to issue notice to the complainant before granting bail, which amounts to a violation of procedural fairness. Moreover, it is alleged that the respondent No.1 has actively participated in the abduction, as testified by the abductee Mst. Saira, during the trial. The applicant also claims that the delay in

lodging the FIR has been adequately explained by her and should not be held against the complainant. Lastly, the learned counsel prays for cancellation of bail.

4. The learned DPG, representing the State, opposed the cancellation of bail application, asserting that the trial court's order was made judiciously, and no legal errors were committed in granting pre-arrest bail. He emphasized that bail is a discretionary power of the court, and the respondent No.1 has not misused the concession of bail at any stage of the proceedings who has joined the trial, and there is no material to suggest that the order of the trial court is arbitrary or unjustified. It was also highlighted that the respondent No.1 is not a previous convict or a hardened criminal, capable of tampering with evidence. He prayed that the application for cancellation of bail may be dismissed, as no cogent grounds have been presented to interfere with the order passed by the trial Court.

5. After carefully examining the record and hearing the arguments of both parties, this Court finds that the application for the cancellation of bail is devoid of merit. It is a settled principle of law that once bail is granted, it cannot be cancelled unless the order passed by the trial court is found to be arbitrary, capricious, or made without proper legal basis. The cancellation of bail is justified only when there is clear and convincing evidence and that the accused has misused the concession of bail or has violated any conditions attached to it. In the present case, the learned Additional Sessions Judge-IV, Larkana, granted pre-arrest bail to the respondent No.1 after a thorough consideration of the facts and circumstances, including the nature of the alleged offence, the evidence available on record, and the relevant legal principles governing the grant of bail. The trial Court specifically noted the following factors:

- Co-accused Abdul Ghafoor, Nazar Muhammad, and Rahib had already been acquitted by judgment dated 11.09.2023.
- There was an inordinate and unexplained delay in the registration of the FIR, which rendered the case against the respondent one of further inquiry under Section 497(2), Cr.P.C.

These factors collectively led the trial Court to exercise its discretion in favor of granting bail. The respondent No.1 has not misused the concession of bail at any stage, and no material has been presented that would justify the cancellation of bail. The allegations made by the applicant/complainant regarding the failure of the trial Court to issue notice to her and the alleged

arbitrariness of the bail order do not hold ground, as there is no indication that the trial court acted in an arbitrary or illegal manner. The contention raised before this Court that the abductee's marriage was not consensual is a matter for the trial Court to consider during course of the proceedings and does not provide sufficient grounds to cancel the bail at this stage. The respondent's conduct during the trial has not been shown to warrant cancellation of bail. In a similar context, the Supreme Court, in the case of ***Abdul Majid Afridi v. The State and Another (2022 SCMR 676)***, observed that;-

“It is now established without any hesitation that considerations for the grant of bail and cancellation whereof are entirely on different footings. Generally speaking, the Courts are reluctant to interfere in the order of grant of bail and even in cases where it is apparently found that the bail granting order is not sustainable in the eyes of law, the Courts restrain to interfere in such matters if it is found that there was nothing to show that the accused has misused the concession of bail”.

6. In light of the above findings, this Court is of the opinion that the present Criminal Misc. Application for the cancellation of bail is without merit and cannot be sustained. The impugned order passed by the learned Additional Sessions Judge-IV, Larkana, granting pre-arrest bail to the respondent No.1 is in accordance with the law and has not been shown to be arbitrary, unjustified, or in violation of any legal principles. Therefore, this Criminal Misc. application stands dismissed accordingly.

JUDGE