IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Criminal Miscellaneous Application No. S-308 of 2023

(Aftab Ali Vs. Misri Khan & others)

Applicant/Complainant:	Aftab Ali son of Muhammad Ameen Hakro, *through* Mr. Rafique Ahmed K. Abro, Advocate.
Respondents:	Misri Khan and others *through,* Mr. Ghulam Murtaza Tunio, Advocate and Mr. Nazir Ahmed Bhangwar, Deputy Prosecutor General, Sindh.
Date of hearing:	23.10.2025.
Date of Order:	23.10.2025.

O R D E R

Ali Haider 'Ada',J:-, Through this application, the applicant, being the complainant, has challenged the order dated 18.08.2023 passed by the learned Additional Sessions Judge, Ratodero, whereby pre-arrest bail was granted to the respondents.

2. The complainant lodged FIR No. 29 of 2023 for offences punishable under sections 336, 337-A(i), 337-F(i), 504, 114, 147, and 148, PPC, registered at Police Station Lashari on 10.07.2023 at about 06:00 p.m., regarding an incident allegedly occurring on 10.06.2023 at about 07:30 p.m. According to the complainant, the respondents, armed with hard and blunt weapons (lathis), assaulted him to compel withdrawal of pending cases against them. It is alleged that during the assault, the complainant sustained multiple injuries, including one on his right eye, and the medical officer subsequently opined that the case fell under section 336, PPC, *Itlaf-e-Salahiyat-e-Udw* (disabling of an organ).

3. Learned counsel for the applicant/complainant contends that specific roles have been assigned to the respondents/accused, and as a result of their assault, the applicant lost his eyesight. He further submits that pre-arrest bail is an extraordinary relief, which should not have been granted in the present case, as the learned trial court failed to properly appreciate the available material showing the direct involvement of the respondents in the commission of the offence. Therefore, the respondents are not entitled to the concession of pre-arrest bail and ought to be taken into custody.

4. Conversely, learned counsel for the respondents/accused submits that all the alleged offences are bailable in nature except 336 PPC. Regarding the application of section 336, PPC, he contends that the medical opinion is inconclusive and does not confirm permanent loss of faculty, as required for *Itlaf-e-Salahiyat-e-Udw.* He therefore supports the impugned order of the trial court.

5. On the other hand, the learned Deputy Prosecutor General submits that, there is inordinate delay in the lodging of the FIR, which aspect was duly considered by the trial court while granting pre-arrest bail. Therefore, at this stage, the scope of interference is narrow under the settled principles of law, and the impugned order does not warrant recall.

6. Heard arguments of the learned counsel for the parties and perused the material available on record with due care and caution.

7. First and foremost, it is observed that the FIR was lodged on 10.07.2023, whereas the alleged incident took place on 10.06.2023, showing an unexplained delay of almost one month in setting the law in motion. No plausible or satisfactory explanation for such delay has been furnished by the complainant. It is a well-settled principle of law that unexplained delay in lodging the FIR creates doubt about the truthfulness of the prosecution story and indicates the possibility of deliberation or consultation before registration of the case. Reliance in this regard is placed on the case of ***Mazhar Ali v. The State*** **(2025 SCMR 318).**

8. Furthermore, the prosecution case mainly rests upon the medical certificate issued by the medical officer, who opined that the complainant had poor vision in one eye. As per the medico-legal certificate, the reduced vision was observed for approximately the six months, which indicates that the injury was not recent or directly linked to the alleged occurrence. The medical officer further advised referral of the complainant to a V.R. Surgeon (Vitreo-Retinal Surgeon) for expert examination and confirmation of the extent and nature of the alleged damage to eyesight. When confronted in Court, the complainant, who was present, candidly stated that he never approached any V.R. Surgeon for examination or treatment. This omission is significant because, under medical practice, the opinion of a V.R. Surgeon is considered specialized and conclusive for determining whether there is permanent loss of vision or *Itlaf-e-Salahiyat-e-Udw* (destruction of faculty). Therefore, this aspect

alone makes the application of section 336, PPC, doubtful and brings the case within the ambit of further enquiry under section 497(2), Cr.P.C, as the determination of whether the alleged injury amounts to permanent loss of faculty requires deeper medical and factual appreciation, which is not permissible at the bail stage.

9. The ingredients for cancellation of bail are not to be interpreted in a wider sense, as the grounds available for such cancellation are limited and specific in nature. In the present case, there is nothing on record to suggest that the respondents have committed any act amounting to misuse or abuse of the concession of bail granted to them by the learned trial Court. It is a settled proposition that at the bail stage, the Courts are not required to indulge in a deeper appraisal or appreciation of the material available on record but are only to tentatively assess whether reasonable grounds exist for believing that the accused is guilty of the alleged offence. None of the recognized grounds for cancellation of bail are attracted in the instant matter. Reliance is placed on the case of ***Rab Nawaz v. Shehzad Hassan and others*** **(2025 SCMR 1357)**, wherein the Honourable Supreme Court of Pakistan held that cancellation of bail cannot be sought merely on reappraisal of the same material already considered by the Court granting bail, unless it is shown that the concession has been misused or that the order suffers from gross illegality or perversity. It is also well settled that cancellation of bail is an extraordinary step and can be resorted to only on two well-defined grounds: (i) when the impugned order is perverse on the face of the record, or (ii) when the order has been passed in clear disregard of the settled principles governing the grant of bail. A perverse order is one which is passed against the weight of the available material, by ignoring relevant evidence, or by failing to apply the correct legal principles, or by giving no reasons for the conclusion reached. Such an order is regarded as arbitrary, whimsical, or capricious. Reliance is also placed on the case of ***Ahmed Shakeel Bhatti and others v. The State and others*** **(2023 SCMR 1)**, wherein the Honourable Supreme Court reaffirmed that interference with an order granting bail is permissible only in the above limited circumstances; otherwise, the settled principle of consistency and stability in judicial orders must prevail.

10. On such aspect, there appears to be no justification to interfere with the impugned order; therefore, the instant application for cancellation of bail is hereby dismissed. However, the learned trial Court is directed to conclude the

trial expeditiously, preferably within a period of three months, and shall not grant adjournments to either party except in exceptional and unavoidable circumstances.

JUDGE

S.Ashfaq/-