

IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Miscellaneous Application No.452 of 2025

Applicant : Ghulam Mustafa Shaikh through Mr. Rafique
Ahmed, Advocate

Respondent : The State
Through, Deputy Prosecutor General, Sindh.

Date of hearing : 18.08.2025
Date of order : 12.09.2025

ORDER

MUHAMMAD HASAN (AKBER), J.- Through the instant Criminal Misc. Application, the applicant has impugned order dated 19.05.2025 passed by the learned VIIIth Additional Sessions Judge, Karachi (East), whereby Respondent No.2 was granted bail. The applicant has approached this Court for cancellation of bail.

2. The background of the case as narrated in the FIR is that the complainant had been residing in his flat for the past one and a half years, and prior to that he had been employed in Saudi Arabia. During this period, he had provided various amounts to Sikandar Ali Abro S/o Ali Dino Abro, both through bank transfers and cash in Karachi, for the purchase of property. Upon his return to Karachi, when he inquired about the property, Sikandar failed to give a satisfactory response and instead of handing over the property, issued five cheques totaling Rs. 62,300,000. These included cheques dated 30.03.2024 for Rs. 6,500,000, Rs. 1,500,000, and

Rs. 7,000,000; a cheque dated 30.04.2024 for Rs. 17,300,000 (UBL, Gulistan-e-Jauhar Branch); and a cheque dated 19.08.2024 for Rs. 30,000,000 (Bank Al Habib, Gulistan-e-Jauhar Branch). The complainant deposited these cheques in his bank account at Gulistan-e-Jauhar Branch on different dates, but all were dishonoured.

3. Learned counsel for the applicant argued that prior to the impugned order, three bail applications of Respondent No.2 had already been dismissed, yet the Trial Court granted bail without fresh grounds, in violation of settled principles. It was contended that sufficient material, including bank statements (Exh. 6/K to 6/N) showing transfer of millions to Respondent No.2, establishes a prima facie case, but the Trial Court ignored this evidence and wrongly held that the money trail was unproven. The Trial Court further erred by re-appreciating evidence, treating it as a case of documentary record, and relying on grounds earlier rejected. It was submitted that the impugned order suffers from misreading of record and violation of law, and thus warrants interference.

4. Learned counsel for the applicant argued that the bail granting order was wrongly passed by the learned court; that the respondent was not entitled to bail; the respondent is liable to pay the amounts of the transaction to the applicant; that the bail order was passed on vague grounds; and that the concession of bail granted to the respondent is liable to be recalled/cancelled.

5. Heard learned counsel for applicant and learned DPG and perused the record.

6. The principles governing cancellation of bail under section 497(5) Cr.P.C., are completely different from those attracted at the time of consideration of bail. In the case of **Munir Ahmad**¹ it was held that Bail is to be cancelled only if the bail granting order is patently perverse and is passed in violation of principles for grant of bail. Another settled rule is that mere possibility of an alternate view is not sufficient to recall bail. In **Suba Khan**², it was held that even if another opinion of the matter can be formed in comparison to the bail granting opinion, the same would not be a sufficient ground to cancel the bail, if in the light of the facts of the case it can be found to have qualified the test of calling further inquiry into the guilt of an accused in terms of sub-section (2) of section 497, Cr.P.C. In **Bashiran Bibi**³

it was held that if the Court on the basis of tentative assessment of evidence, forms an opinion that *prima facie* reasonable grounds existed to believe that accused has not committed an offence with which he was being charged with, he would be allowed bail as a matter of right, by virtue of subsection (2) of section 497, Cr.P.C.

7. Lastly, **Sami Ullah**⁴ case provides a detailed and in-depth discussion on the subject, wherein it was held that ordinarily superior courts were reluctant to interfere with an order extending concession of bail, unless very strong and exceptional grounds exist to interfere with such concession extended to a person who was otherwise clothed with freedom. Further held that any action of the Court in contrast to the above would amount to curtailing the liberty of such person, which is a precious right guaranteed under the Constitution. Some of the guidelines as spelled out for cancellation of bail in the said case were as follows: (i) that the bail granting Order has to be so patently illegal, erroneous, factually incorrect, that it resulted in miscarriage of justice; (ii) the accused had misused the concession of bail in any manner; (iii) the accused had attempted to hamper prosecution evidence by persuading/ pressurizing prosecution witnesses; (iv) there was likelihood of abscondment of the accused beyond the jurisdiction of the Court; (v) the accused had attempted to interfere with the smooth course of investigation; (vi) the accused misused his liberty while indulging into a similar offence; or (vii) some fresh facts and material had been collected during the course of investigation, establishing guilt of the accused. It was further held that even where material available on the record did not support a finding of misuse of concession of bail by the accused in any manner, the court could decline cancellation of bail, even if it was satisfied that the bail granting order passed by the court below was not sustainable in the eyes of law. In case any material came on record regarding misuse of privilege of bail was subsequently discovered, the matter could be remanded to the Court below.

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1. 'Munir Ahmad v. The State and another' (2014 SCMR 1669); 'Suba Khan v. Muhammad Ajmal and 2 others' (2006 SCMR 66)
 2. 'Suba Khan v. Muhammad Ajmal and 2 others' (2006 SCMR 66)
 3. 'Bashiran Bibi v. Nisar Ahmad Khan' (PLD 1990 SC 83); 'Asmat Ullah Khan v. Bazi Khan' (PLD 1988 SC 621); 'Arbab Ali v. Khamiso and others' (1985 SCMR 195)
 4. 'Sami Ullah and another v. Laiq Zada and another' (2020 SCMR 1115); 'Tariq Bashir and 5 others v. The State' (PLD 1995 SC 34); 'Shahid Arshad v. Muhammad Naqi Butt and 2 others' (1976 SCMR 360).

8. Applying the above principles to the facts of the present case, it appears that the learned trial Court duly considered all relevant factors, the transaction and relationship between the parties, the money trail which is yet to be established, the allegation of forgery which is yet to be proved, different versions of both the parties, evidence produced by some of the witnesses, non-prohibitory nature of the offences, the documentary nature of evidence, the time consumed for conclusion of trial and lastly the date of arrest of the accused on 17-10-2024 and his detention for several months. Finally applying the ratio settled by the Supreme Court in ***Muhammad Anwar***⁵ and ***Ahmad Nawaz***⁶ the learned trial Court rightly formed the opinion that essential conditions for grant of bail under section 497(2), Cr.P.C. were satisfied.

9. No illegality or perversity could be spelled out from the above considerations by the learned Judge, nor any material was pointed out to meet the test as settled by the Supreme Court in the above discussed cases. No case of interference in the impugned Order or recall of the bail concession is made out by the applicant. The application for cancellation of bail is, therefore, dismissed.

J U D G E

5. *'Muhammad Anwar v. The State' 2024 SCMR 1567*

6. *'Ahmad Nawaz v. The State' 2024 SCMR 1525*