

PRESENTED ON  
26-08-2022

Deputy Registrar (Judl.)

## IN THE HIGH COURT OF SINDH, AT KARACHI

CRL.MISC.NO. 474 OF 2022

Abdul Moiz Moazzamuddin  
S/o Ghulam Muhammad  
Saddaruddin (Late),  
Muslim, adult, resident of  
House No.B-8, Block No.3,  
Gulistan-e-Jauhar, Karachi.....Applicant/Complainant

Versus

1) Abdul Samad Baleeghuddin  
S/o Ghulam Muhammad  
Saddaruddin (Late),  
Muslim, Adult, resident of  
House No.B-54, Block No.12,  
Gulberg, F.B. Area, Karachi.

2) The State ..... Respondents



F. I. R No. 167 of 2011  
U/S: 419/420/467/468/471/34 PPC  
PS: New Town, Karachi-East.

APPLICATION U/S 497(5) CR.P.C

# IN THE HIGH COURT OF SINDH, AT KARACHI

Criminal Misc. Application No.474 of 2022

[Abdul Moiz Moazzamuddin vs. Abdul Samad Baleeghuddin]

Applicant : Abdul Moiz Moazzamuddin (Nemo)

Respondent No.1 : Abdul Samad Baleeghuddin  
through Mr. Naveed Ahmed, advocate

Respondent No.2 : The State  
Mr. Mumtaz Ali Shah, A.P.G. Sindh

Date of hearing : 14.03.2025

Date of judgment : 14.03.2025

## JUDGMENT

Jan Ali Junejo, J:- This Criminal Misc. Application is directed against the Order dated 29-10-2021 passed by the Court of learned IVth Additional Sessions Judge, Karachi-East, whereby Bail Application No. 5392 of 2021, filed on behalf of the Respondent No. 1 arising out FIR No.167/2011 P.S. New Town, Karachi was confirmed.



2. The complainant, Abdul Mueez Moazzamuddin, lodged an FIR at P.S. New Town, alleging that his late father, Ghulam Muhammad Sadruddin, owned two commercial plots in Surjani Town, Karachi, which were wrongfully taken over by his two brothers, Abdul Khabeer Rafiuddin and Abdul Samad Baleeghuddin. While the complainant was abroad, his brothers fraudulently obtained a fake Heirship Certificate excluding his name and used it to transfer the ownership of the plots. One plot (SB-162, Sector 7-A, Scheme No. 41) was transferred to Abdul Samad Baleeghuddin and later sold to Jahanzaib for a significant sum, which the accused misappropriated. Similarly, the second plot (SB-22, Sector 7-A, Scheme No. 41) was

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transferred in 2005 to Abdul Samad Baleeghuddin and subsequently to their maternal nephew, Jalaluddin. The accused allegedly forged documents, concealed facts from the Karachi Development Authority (KDA), misused a Power of Attorney issued by their late father, and committed fraud by producing false witnesses and documents. The complainant requests legal action under Sections 419, 420, 467, 468, 471, and 34 of the Pakistan Penal Code (PPC) against the accused.

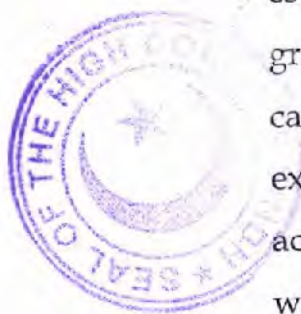
3. No one appeared on behalf of the Applicant to present arguments in support of the Criminal Miscellaneous Application. Conversely, counsel for Respondent No.1 contended that the application seeking cancellation of bail lacks merit and warrants dismissal. The Applicant has failed to establish any justifiable grounds for revocation of bail, as there is no prima facie evidence of its misuse, interference in the investigation, or threats posed to the complainant. Additionally, the significant delay in lodging the FIR casts doubt on the credibility of the allegations. The learned Additional Sessions Judge, after careful consideration of the facts and legal provisions, rightly granted bail, and no element of malice or undue influence has been demonstrated in the process. Furthermore, the accused has already been acquitted, and Respondent No.1 has now also been acquitted through a judgment rendered by the learned trial Court, thereby rendering the present application infructuous. There is no direct evidence implicating Respondent No.1 in forgery or fraud, nor has the prosecution established any necessity for further recovery from him. Established legal principles dictate that bail should only be revoked under compelling circumstances, such as absconding or tampering with evidence,—both of which are absent in this case. At most, the matter warrants further inquiry, and the law does not support



arbitrary cancellation of bail. Moreover, bail revocation cannot be used as a means of persecution, particularly when the accused has already been exonerated. In light of these considerations, the application is devoid of substance and is liable to be dismissed.

4. The learned Assistant Prosecutor General (APG) has also endorsed and adopted the arguments put forth by the learned counsel for Respondent No.1 and has accordingly prayed for the dismissal of the Criminal Miscellaneous Application.

5. I have meticulously reviewed the case record and thoroughly considered the arguments. The central question before this Court is whether bail, once granted by a competent court of law, can be subsequently cancelled. It is a well-established legal principle that once an accused has been granted bail by a court of competent jurisdiction, the issue of its cancellation becomes redundant unless specific legal grounds exist. Bail can only be revoked if it is demonstrated that the accused has misused the concession, absconded, or interfered with the prosecution's case—none of which have been substantiated in the present matter. The legal principles governing the grant of bail and its cancellation rest on distinct foundations. Bail is not to be withdrawn unless the order granting it is manifestly illegal, factually incorrect, erroneous, or has led to a miscarriage of justice. Furthermore, cancellation may be warranted if the accused is found to be misusing bail by issuing threats or tampering with prosecution evidence. Courts have consistently exercised caution in cancelling bail, as personal liberty cannot be curtailed on trivial or unsubstantiated grounds. The criteria for bail cancellation closely align with the legal standards applicable to setting aside an acquittal order. Once bail has been granted by a competent



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Court, it can only be cancelled under strong and exceptional circumstances. In this regard, reference may be made to the case of *The State through Director v. Shakil-ur-Rehman* (2019 YLR 1468). Additionally, the record reveals that Respondent No.1 has already been acquitted under Section 245(1) of the Cr.P.C. through a judgment dated 01-07-2024, issued by the learned XXXIInd Judicial Magistrate, Karachi-East, in Criminal Case No.162 of 2013, arising out of FIR No.167 of 2011, registered under Sections 420, 468, 471, and 34 of the PPC at P.S. New Town, Karachi. Given this acquittal, the question of bail cancellation is now irrelevant and without legal justification.

6. Given these circumstances, this Court finds no legal justification to interfere with the bail order, as the entire proceedings have been disposed of through acquittal. The Criminal Miscellaneous Application is without merit and is hereby dismissed accordingly.



  
JUDGE