

## IN THE HIGH COURT OF SINDH AT KARACHI

Criminal Revision Application No.        of 2026  
(Arising out of Cr. Bail Application No. 2707/2025)

Criminal Revision A. No.        of 2026  
(Arising out of Cr. Misc. Application No. 174 of 2026 /  
Cr. Bail Application No. 3561/2025)

Applicant                                :    Abdul Qadir alias Qadir Dad through Mr. Manzoor Hussain Memon, Advocate.

Applicant                                :    Moosa through Mr. Subhan Javed, Advocate.

Respondent                             :    The State through Mr. Qameruddin Nohri, D.P.G.

Date of hearing                        :    30.04.2026.

Date of order                            :    30.04.2026

ORDER.

**TASNEEM SULTANA-J.:-** Through the instant Criminal Revision Applications, applicants namely Abdul Qadir alias Qadir Dad and Muhammad Moosa @ Mustafa have called in question the legality of the orders dated 02.09.2025 and 20.11.2025 respectively passed by the learned VIIIth Additional District & Sessions Judge, Malir, Karachi in Criminal Miscellaneous Application No.25 of 2025 and Criminal Miscellaneous Application No.42 of 2025 instituted under Section 497(5), Cr.P.C. by the complainant for cancellation of bail, whereby the concession of post-arrest bail earlier granted to them vide orders dated 24.07.2025 and 07.10.2025 respectively, arising out of FIR No.859 of 2025 registered under Sections 337-F(v), 506 and 34 PPC at Police Station Site Super Highway Industrial Area, Karachi, was recalled/cancelled. Since both matters arise out of the same FIR and involve common questions of law and facts, therefore, they were heard together and are being disposed of through this consolidated judgment.

2.            The brief facts of the prosecution case are that complainant Akbar Ali lodged FIR No.859 of 2025 alleging therein that owing to previous monetary dispute and personal grudge, accused persons namely Abdul Rashid, Abdul Qadir alias Qadir Dad, Muhammad Moosa @ Mustafa and others called the complainant to their house, subjected him to maltreatment, caused injuries to

his hand and extended threats to his life. During investigation, medical evidence was collected and offences under Sections 337-F(v), 506 and 34 PPC were incorporated in the case.

3. Initially, applicant Abdul Qadir alias Qadir Dad filed Criminal Bail Application No.85 of 2025 before the learned Family Judge & Judicial Magistrate, Malir, Karachi, which was dismissed vide order dated 19.07.2025. Thereafter, he approached the learned VIIth Additional Sessions Judge, Malir, Karachi through Criminal Bail Application No. 3151 of 2025 and was admitted to post-arrest bail vide order dated 24.07.2025.

4 Likewise, applicant Muhammad Moosa @ Mustafa filed Criminal Bail Application No.105 of 2025 before the learned Family Judge & Judicial Magistrate, Malir, Karachi, which too was dismissed vide order dated 20.09.2025. Subsequently, he was admitted to post-arrest bail by the learned VIIth Additional Sessions Judge, Malir, Karachi passed in Criminal Bail Application No.4519 of 2025. vide order dated 07.10.2025.

5. Thereafter, the complainant party moved applications under Section 497(5), Cr.P.C. seeking cancellation of bail mainly on the ground that after securing concession of bail the applicants had started threatening and harassing the complainant party and were misusing concession of bail. The learned trial Court vide impugned orders accepted such applications and recalled/cancelled concession of bail earlier granted to the applicants.

6. Learned counsel for the applicants contended that the applicants are innocent and have falsely been implicated in the present case owing to previous enmity and monetary dispute with the complainant party; that the allegations levelled in the FIR do not attract the prohibitory clause of Section 497, Cr.P.C. and the case of the applicants squarely falls within the ambit of further inquiry as contemplated under Section 497(2), Cr.P.C.; that the learned VIIth Additional Sessions Judge, Malir, Karachi, after tentative assessment of the available material, had already admitted the applicants to post-arrest bail through well-reasoned orders and after grant of bail no exceptional circumstance had arisen justifying cancellation thereof, that the allegations regarding threats and harassment are vague, general in nature and unsupported by any independent material; that the settled principles governing grant of bail and cancellation of bail stand altogether on different footings and once concession of bail has been extended by a competent Court, the same cannot lightly be withdrawn unless there exists strong and exceptional material showing misuse of concession of bail, interference with investigation, tampering with prosecution evidence or absconion; that cancellation application against applicant Abdul Qadir alias Qadir Dad had al been filed on 28.07.2025 whereas subsequently he joined trial proceedings on 29.07.2025 after grant of post arrest

bail vide order dated 24-07-2025; that cancellation application against applicant Muhammad Moosa @ Mustafa had been filed on 10.10.2025 before his actual release from custody on 13.10.2025 and thereafter he joined trial proceedings on 15.10.2025; that the applicants had never intentionally avoided the process of law; and lastly that cancellation of bail could not have been ordered merely because another view of the matter was possible.

7. Conversely, learned D.P.G. for the State assisted by the learned counsel for the complainant raised preliminary objection regarding maintainability of the instant proceedings and contended that challenge to an order passed under Section 497(5), Cr.P.C. lies through Criminal Revision under Sections 435 and 439-A, Cr.P.C. and not through Criminal Bail Applications; that after securing concession of bail the applicants had misused such concession by remaining absent from proceedings and pressurizing the complainant party for compromise; that the complainant is an injured witness whose version stands corroborated by medical evidence; and that the learned trial Court, after properly appreciating the conduct of the applicants, had rightly exercised jurisdiction under Section 497(5), Cr.P.C.

8. I have heard learned counsel for the applicants, learned D.P.G. for the State as well as learned counsel for the complainant and have perused the material available on record with their able assistance.

9. At the very outset, I deem it appropriate to address the objection regarding maintainability of the instant proceedings. Admittedly, the impugned orders have been passed by the learned trial Court under Section 497(5), Cr.P.C. whereby concession of bail earlier granted to the applicants was recalled/cancelled. Ordinarily, challenge to such orders lies through revisional jurisdiction under Sections 435 and 439-A, Cr.P.C.

10. In the case of Muhammad Malik Pervez v. The State (1968 PCRLJ 196), the Hon'ble Court held as under:-

“Having heard the learned counsel we have no hesitation in coming to the conclusion that these applications for bail before arrest were wholly misconceived. His remedy if any, lay by way of revision from the orders of the Courts concerned cancelling his bails.”

11. Perusal of record further reflects that applicant Muhammad Moosa @ Mustafa had initially filed Cr. Bail Application No.3561 of 2025 before this Court. During proceedings, learned counsel for the applicant frankly conceded that proper remedy was to invoke revisional jurisdiction against the order passed under Section 497(5), Cr.P.C. Consequently, vide order dated 06.02.2026 this

Court directed conversion of the said Criminal Bail Application into Criminal Miscellaneous Application and pursuant thereto the matter was assigned Cr. Misc. Application No.174 of 2026.

12. However, owing to typographical/office error, the matter was described as Criminal Miscellaneous Application instead of Criminal Revision Application though the lis involved throughout remained revisional in character.

13. It is by now well settled that superior Courts possess ample authority to convert one form of proceedings into another in order to advance substantial justice and avoid multiplicity of litigation. In *Liaqat Ali v. Bashiran Bibi and others* (2005 CLC 11), it was observed as under:-

“We will also like to observe that rules of procedure are intended to foster justice, technicalities, unless these offer insurmountable hurdles, cannot be permitted to operate as a tyrant master. And, to avoid failure of justice and multiplicity of litigation, one type of proceedings could be converted into another type of proceedings.”

14. In *Muhammad Akram v. DCO, Rahim Yar Khan and others* (2017 SCMR 56), the Hon’ble Supreme Court of Pakistan held as under:-

“The Courts are sanctuaries of justice, and in exercise of authority to do *ex debito justitiae*, that is to say remedy a wrong and to suppress a mischief to which a litigant is entitled. No fetters or bar could be placed on the High Court and or this Court to convert and treat one type of proceeding into another type into another and proceed to decide the matter either itself provided it has jurisdiction over the lis before it in exercise of another jurisdiction vested in the very Court or may remit the lis to the competent authority/forum or Court for decision on merits. Courts have been treating and/or converting appeals into revisions and vice versa, and constitutional petitions into appeals or revisions and vice versa.”

15. Similar view was reaffirmed in *Sher Alam Khan v. Abdul Munim and others* (PLD 2018 SC 449), *Commissioner of Income Tax (Legal) RTO, Abbotabad v. Messrs ED-Zublin AG Germany and another* (2020 SCMR 500), *Muhammad Salman v. Naveed Anjum and others* (2021 SCMR 1675) and *Government of Punjab and others v. Abdur Rehman and others* (2022 SCMR 25).

16. In *Javaid Iqbal and another v. The State* (1998 Law Notes Lahore 659), a learned Division Bench converted proceedings relating to pre-arrest bail into revision petition while holding that technical defects should not defeat administration of justice.

17. Therefore, in order to avoid multiplicity of proceedings and to advance substantial justice, Cr. Misc. Application No.174 of 2026 arising out of Cr. Bail Application No.3561 of 2025 filed by applicant Muhammad Moosa @ Mustafa

is hereby treated and construed as Criminal Revision Application for all legal and procedural purposes. Likewise, Cr. Bail Application No.2707 of 2025 filed by applicant Abdul Qadir alias Qadir Dad shall also be treated as Criminal Revision Application. Office is directed to assign proper Criminal Revision numbers to both matters and amend office record accordingly.

18. Coming to merits of the controversy, it is trite that the considerations for the grant of bail and those for its cancellation are altogether different. In *Sami Ullah and another v. Laiq Zada and another* (2020 SCMR 1115), the Hon'ble Supreme Court of Pakistan held that the bail granted to an accused can be recalled in the following circumstances:

- i) If the bail granting order is patently illegal, erroneous, factually incorrect and has resulted in miscarriage of justice.
- ii) That the accused has misused the concession of bail in any manner.
- iii) That accused has tried to hamper prosecution evidence by persuading/pressurizing prosecution witnesses.
- iv) That there is likelihood of absconsion of the accused beyond the jurisdiction of Court.
- v) That the accused has attempted to interfere with the smooth course of investigation.
- vi) That accused misused his liberty while indulging into similar offence.
- vii) That some fresh facts and material has been collected during the course of investigation with tends to establish guilt of the accused.

19. Perusal of record reflects that initially post-arrest bail applications filed by the present applicants were dismissed by the learned Family Judge & Judicial Magistrate, Malir, Karachi vide orders dated 19.07.2025 and 20.09.2025 respectively. Thereafter, applicant Abdul Qadir alias Qadir Dad was admitted to post-arrest bail by the learned VIIIth Additional District & Sessions Judge, Malir, Karachi vide order dated 24.07.2025 passed in Criminal Bail Application No.3151/2025, whereas applicant Muhammad Moosa @ Mustafa was admitted to post-arrest bail vide order dated 07.10.2025 passed in Criminal Bail Application No.4519/2025.

20. The orders granting bail reveal that the learned Sessions Court upon tentative assessment of available material had observed that the matter called for further inquiry within the meaning of Section 497(2), Cr.P.C. and that deeper appreciation of evidence would be required at trial.

21. Subsequently, applications under Section 497(5), Cr.P.C. were moved by the complainant party seeking cancellation of bail mainly on the allegations that after securing concession of bail the applicants had started threatening and harassing the complainant party, were pressurizing the complainant for compromise and were misusing concession of bail.

22. Perusal of record reflects that cancellation application against applicant Abdul Qadir alias Qadir Dad was filed on 28.07.2025 before the learned VIIIth Additional Sessions Judge, Malir, Karachi seeking cancellation of post-arrest bail granted vide order dated 24.07.2025 passed in Criminal Bail Application No.3151/2025. However, the available material further reflects that thereafter the said applicant joined trial proceedings on 29.07.2025 before the learned trial Court. Therefore, prima facie the subsequent conduct of the applicant does not reflect deliberate avoidance of judicial proceedings after grant of bail.

23. Likewise, cancellation application against applicant Muhammad Moosa @ Mustafa was filed on 10.10.2025 seeking cancellation of post-arrest bail granted vide order dated 07.10.2025 passed in Criminal Bail Application No.4519/2025. The record further reflects that the said applicant was actually released from custody on 13.10.2025 pursuant to release writ issued by the learned VIIIth Additional Sessions Judge, Malir, Karachi and thereafter joined trial proceedings on 15.10.2025. Therefore, prima facie allegations regarding misuse of concession of bail had been levelled even prior to his actual release from custody.

24. Tentative assessment of available material, however, reflects that allegations regarding threats and harassment are predominantly based upon assertions of complainant party and no substantial independent material of unimpeachable character has been brought on record conclusively establishing deliberate misuse of concession of bail by the applicants.

25. Mere allegations or apprehensions, howsoever serious, ordinarily do not furnish sufficient basis for recalling concession of bail already granted by a competent Court.

26. The law is well settled that cancellation of bail cannot be ordered merely because another view of the matter is possible. Unless the order granting bail is shown to be patently illegal or the accused is shown to have grossly misused concession of bail through strong and convincing material, liberty already extended by a competent Court is not to be lightly withdrawn.

27. In Shahzada Qaiser Arafat alias Qaiser v. The State and another (PLD 2021 SC 708), the Hon'ble Supreme Court held as under:-

“Protection against arbitrary arrest and detention is part of the right to liberty and fair trial. Despite non-availability of the incriminating

material against the accused, his implication by the complainant and the insistence of the Police to arrest him are the circumstances which by themselves indicate the mala fide on the part of the complainant and the police, and the accused need not lead any other evidence to prove mala fide on their part.”

28. Keeping in view the overall circumstances of the case, tentative nature of allegations, settled principles governing cancellation of bail and the fact that exceptional circumstances warranting recall of concession of bail are not prima facie made out from record, I am of the considered view that the impugned orders passed by the learned trial Court are not sustainable in the eye of law.

29. Accordingly, both these Criminal Revision Applications are allowed and the impugned orders dated 02.09.2025 and 20.11.2025 respectively passed by the learned VIIth Additional Sessions Judge, Malir, Karachi under Section 497(5), Cr.P.C. are hereby set aside. Consequently, post-arrest bail earlier granted to applicants Abdul Qadir alias Qadir Dad and Muhammad Moosa @ Mustafa shall remain intact on same terms and conditions.

30. Needless to observe that observations made hereinabove are tentative in nature and shall not prejudice either party during trial in any manner.

JUDGE

Shabir/PS