

HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

Cr. Bail. Application No.S-286 of 2026
Converted into Cr. Revision Application
[Muhammad Zohaib @ Zohaib @ Raju]

Applicant by: Mr. Nawaz Ali Rajpar advocate
State by: Mr. Khalid Hussain Lakho D.P.G
Date of hearing 18.06.2026
Date of Order 18.06.2026

ORDER

TASNEEM SULTANA, J: Through the instant application, filed under Section 498, Cr.P.C., the applicant Muhammad Zohaib alias Zohaib alias Raju seeks pre-arrest bail in Crime No.103 of 2025, registered at Police Station Fort, Hyderabad, for an offence punishable under Section 324 PPC, subsequently challaned under Section 337-F(ii), PPC. The record reflects that the applicant was earlier granted pre-arrest bail by the learned IV-Additional Sessions Judge, Hyderabad, in Criminal Bail Application No.3176 of 2025; however, the said concession was recalled/cancelled vide order dated 08.12.2025 passed on an application under Section 497(5), Cr.P.C. filed by the complainant.

2. Briefly, the facts of the prosecution case are that complainant Asad alias Sunny lodged the FIR alleging therein that an amount of Rs.1,20,000/- was outstanding against the applicant and whenever the complainant demanded the said amount, the applicant used to issue threats. It is alleged that on 12.10.2025, at about 11:00 p.m., the complainant along with his friend Sheeraz Ali Dahri, after taking meal, was going back on motorcycle and when they reached in front of Al-Sadaat Hotel at Bacha Khan Chowk, the applicant came from the front side street, made straight fires upon the complainant with intention to kill him, one fire hit his right arm, whereafter the applicant fled away while making firing. The complainant was taken to hospital for treatment and thereafter the FIR was lodged.

3. At the very outset, when confronted with the position that the applicant's earlier pre-arrest bail had already been recalled/cancelled by the learned IV-Additional Sessions Judge, Hyderabad, under Section 497(5), Cr.P.C. vide order dated 08.12.2025, and that ordinarily the remedy against such order lies through revisional jurisdiction and not by filing a fresh application under Section 498, Cr.P.C., learned counsel for the applicant, before advancing submissions on merits, conceded that the real grievance of the applicant is against the said cancellation order. He, however, submitted that wrong description of the proceedings may not defeat substantive justice and the instant application may be treated as Criminal Revision Application so that the legality and propriety of the

order dated 08.12.2025 may be examined by this Court.

4. While arguing on merits of the cancellation order, learned counsel for the applicant submits that the learned Court below failed to appreciate the settled distinction between grant of bail and cancellation of bail; that once the applicant had been admitted to pre-arrest bail, the concession could not be recalled merely on the basis of subsequent allegations, unless misuse of concession was established through material of satisfactory character; that the cancellation application was moved with mala fide intention and on vague assertions; that the impugned order mainly rests upon the allegation of registration of another FIR and alleged threats; that mere registration of another FIR, without independent material showing misuse of concession, could not be made a ground for cancellation of bail; that the applicant neither absconded nor violated any condition of bail; that he did not tamper with prosecution evidence, pressurize any witness or interfere with the trial; that the complainant's subsequent change of stance regarding his earlier no-objection was an afterthought; that otherwise too, the offence ultimately challaned under Section 337-F(ii), PPC does not fall within the prohibitory clause of Section 497, Cr.P.C.; and that the impugned order suffers from material irregularity and is liable to be set aside.

5. Conversely, learned D.P.G. Sindh, assisted by learned counsel for the complainant, submits that since the applicant's earlier pre-arrest bail had already been recalled/cancelled by the learned Court below under Section 497(5), Cr.P.C., the instant application under Section 498, Cr.P.C. is misconceived. According to him, the applicant, instead of pressing the present bail application, ought to withdraw the same and avail proper remedy by filing a criminal revision against the order dated 08.12.2025. On merits, he submits that after grant of bail, the applicant misused the concession and again attacked the complainant, whereafter FIR No.166 of 2025 under Sections 337-F(ii), 506/2, 34 PPC was registered at Police Station Makki Shah, Hyderabad; that the complainant was earlier pressurized to extend no-objection before the learned Court below; that the applicant continued to issue threats to the complainant to withdraw from the case; that the conduct of the applicant disentitles him from concession of bail; that the learned Court below, after hearing both sides, rightly exercised jurisdiction under Section 497(5), Cr.P.C. and cancelled the concession of bail; and that the application merits dismissal.

6. Heard. Record perused.

7. In view of the above position, the preliminary question requiring consideration is whether the instant application, though filed under Section 498, Cr.P.C., can be treated as a Criminal Revision Application for examining the legality and propriety of the order dated 08.12.2025 passed under Section 497(5), Cr.P.C. It is not disputed that an order cancelling bail is ordinarily amenable to

revisional jurisdiction under Sections 435 and 439-A, Cr.P.C.

8. In the case of Muhammad Malik Perez v. The State (1968 PCr.LJ 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.”

9. However, 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 to 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.”

10. 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.”

11. Similar view was reaffirmed in Sher Alam Khan v. Abdul Munim and others (PLD 2018 SC 449), Commissioner of Income Tax (Legal), RTO, Abbottabad 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).

12. 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.

13. Therefore, instead of requiring the applicant to withdraw the present application and institute fresh revision proceedings, which would only result in multiplicity of litigation, the instant Criminal Bail Application No.S-286 of 2026 filed by applicant Muhammad Zohaib alias Zohaib alias Raju is hereby treated and construed as Criminal Revision Application for all legal and procedural

purposes. Office is directed to assign proper Criminal Revision number to the matter and amend the office record accordingly.

14. Coming to the merits of the controversy, it is trite that considerations for grant of bail and those for cancellation of bail are altogether different. Once concession of bail has been extended by a competent Court, the same cannot be recalled in a mechanical manner or merely on the basis of allegations, unless the order granting bail is shown to be patently illegal, perverse or arbitrary, or the accused is shown, through material of satisfactory nature, to have misused such concession.

15. In Sami Ullah and another v. Laiq Zada and another (2020 SCMR 1115), the Hon'ble Supreme Court of Pakistan has held that 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 has 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.”

16. The principles laid down in the above case make it clear that bail already granted cannot be cancelled merely because the complainant subsequently alleges threats, expresses apprehension, or refers to registration of another FIR. Such subsequent FIR may be a relevant circumstance, but it cannot be treated as an automatic ground for cancellation unless the material placed before the Court shows, at least tentatively, misuse of concession, attempt to pressurize the complainant or prosecution witnesses, interference with proceedings, likelihood of absconsion, violation of any condition of bail, or any other circumstance falling within the recognized grounds for recall of bail.

17 .In the present case, the learned Court below recalled the concession of bail mainly on the assertion of the complainant that after obtaining bail the applicant again attacked him, which led to registration of FIR No.166 of 2025 under Sections 337-F(ii), 506/2, 34 PPC at Police Station Makki Shah,

Hyderabad, and that the applicant was issuing threats to withdraw from the case. The complainant had also alleged that he had earlier extended no-objection under pressure. However, except the complainant's assertion and reference to registration of subsequent FIR, no independent material has been referred in the impugned order to show that the applicant had interfered with the proceedings, tampered with prosecution evidence, avoided the process of Court, violated any specific condition of bail, coerced the complainant, or pressurized any witness in a manner substantiated from the record.

18. It may also be observed that the present case was ultimately challaned under Section 337-F(ii), PPC, which does not fall within the prohibitory clause of Section 497, Cr.P.C. Though this circumstance by itself is not decisive in cancellation proceedings, it reinforces the need for stronger reasons before recalling concession of bail already granted to the applicant. The earlier bail granting order has not been shown to be patently illegal, arbitrary or perverse. In such circumstances, the learned Court below appears to have treated the registration of subsequent FIR and allegation of threats as sufficient for cancellation, without recording satisfaction on the basis of material showing misuse of concession within the parameters laid down by the Hon'ble Supreme Court in Sami Ullah's case. The impugned order, therefore, cannot be sustained.

19. For the foregoing reasons, the instant matter, after being treated as Criminal Revision Application, is allowed. Consequently, the order dated 08.12.2025 passed by the learned IV-Additional Sessions Judge, Hyderabad, in Criminal Miscellaneous Application filed under Section 497(5), Cr.P.C. in Criminal Bail Application No.3176 of 2025, is set aside. The concession of pre-arrest bail earlier granted to the applicant shall stand restored on the same terms and conditions; however, if the earlier surety/bond has ceased to operate on account of cancellation, the applicant shall furnish fresh surety and P.R. bond in the same amount to the satisfaction of the learned trial Court. The applicant shall regularly appear before the learned trial Court and shall not misuse the concession of bail in any manner.

JUDGE