

ORDER SHEET
HIGH COURT OF SINDH, CIRCUIT
COURT, HYDERABAD

Cr. Misc. Appl. No. S- 691 of 2021

DATE	ORDER WITH SIGNATURE OF JUDGE
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Applicant: Khuda Bux
through Mr. Agha Ghulam Abbas, Advocate

Mr. Nazar Muhammad Memon, Addl. P.G Sindh

Date of hearing & decision: 19.11.2021

O R D E R

ADNAN-UL-KARIM MEMON, J:- The Applicant through the captioned application seeks cancellation of bail granted to respondents 1 & 2 by learned Additional Sessions Judge, Shahdadpur in Cr. Bail Application No. 843 of 2021 (Re-Sajjad & another v. The State) emanated from Crime No. 34 of 2021 registered at police station Sarhari under Section 334, 337-A (i), F(i), 506/2, 504 & 34 PPC. vide order dated 18.9.2021.

2. Brief facts of the case are that complainant Khuda Bux lodged the above FIR concerning a dispute going on between him and Ghulam Qadir Khokhar, such case was already filed against Ghulam Qadir and others and said Ghulam Qadir was restraining them from giving evidence against in the said case otherwise they will cause harm to them. On the fateful day Complainant along with his nephew Ali Jan and cousin Sikandar were on the lands and were watering their lands when at about 8-30 PM three persons namely Ghulam Qadir and Sajjad having hatchet in their hands and Mashooque having lathi in his hand, came when Ghulam Qadir caused hatchet injury to complainant, as a result of which his little finger from the upper side was amputated, Sajjad Khokhar caused backside of his hatchet and Mashooque Khokhar caused lathi blow on the legs, arm, back and other parts of the body of complainant, he raised hues and cry, his nephew Ali Jan and cousin Sikandar Khokhar rescued him. Such FIR of the incident was registered.

3. Learned counsel or the applicant has contended that learned Additional Sessions Judge, Shahdadpur without touching merits of the case granted bail to respondents 1 & 2, hence the order comes within the meaning of audi alteram partem; that after grant of bail the accused persons are issuing threats to the applicant / Complainant; that accused persons are misusing the concession of bail; that in the incident-specific role was attributed to the accused persons. He lastly prayed for the cancellation of bail to the respondents.

4. I have gone through the impugned order dated 18.09.2021 passed by learned Additional Sessions Judge, Shahdadpur. The pre-arrest bail was granted to private respondents on the premise that FIR was delayed without plausible explanation and there were general allegations against the applicants and further there was a dispute over residential plot between the parties, as disclosed in the memo of FIR and the case of accused /respondents fall within the ambit of Section 497(2) Cr.P.C. In my tentative assessment, the ground for cancellation of bail as agitated by learned counsel for the complainant could only be thrashed out at the time of recording evidence of the parties; since the trial is yet to begin thus no fruitful result will come out to recall the pre-arrest bail granted vide order dated 18.09.2021.

5. In view of the above facts and circumstances of the case, at this juncture, no case for cancellation of bail under Section 497(5) Cr. P.C is made out. Accordingly, instant Criminal Miscellaneous Application fails and the same stands dismissed. However, learned trial Court shall ensure the safety of complainant and his witnesses at the time of recording evidence. Needless to say that trial Court may exercise the powers, if the accused persons misuse the concession of bail during trial.

JUDGE