

ORDER SHEET
**IN THE HIGH COURT OF SINDH
CIRCUIT COURT HYDERABAD**

Criminal Miscellaneous Application No.S-888 of 2022

DATE

ORDER WITH SIGNATURE OF JUDGE

For orders on office objection.
For hearing of main case.

31-03-2023

Mr. Rasheed Ahmed Panhwar, advocate for applicant.
Mr. Imran Ahmed Abbasi, A.P.G. Sindh.

Through instant criminal miscellaneous application, the applicant/complainant seeks cancellation of bail under section 497 (5) Cr.P.C. challenging the order dated 14.12.2022, passed by the learned Additional Sessions Judge-IV, Hyderabad in Crime No.11 / 2021 registered at PS Rahuki for the offence under section 302, 337-J, 34 PPC whereby the respondents No.1 and 2 were admitted to post-arrest bail.

2. Learned counsel for the applicant contends that after grant of bail, the respondents No.1&2 are extending threats of dire consequence to murder the complainant. He further contends that the learned trial Court has not considered the material collected by prosecution against the respondents/accused properly but admitted the accused to bail without appreciating the material available on record. He, therefore, prays for cancellation of bail granted to the respondents/accused.

3. On the other hand, learned A.P.G. Sindh contends that FIR lodged by the applicant/accused is delayed by 47 days and no specific role is assigned upon the respondents No.1&2, as such, he supports the impugned order.

4. Admittedly FIR is delayed by 47 days. No specific role is assigned upon the respondents/accused. No proof is placed on record as to whether the respondents/accused have misused the concession of bail. Furthermore, for cancellation of bail the complainant is essentially required to urge strong and exceptional ground of misuse of the concession of bail to the accused and tampering with evidence once bail is granted by a Court of competent jurisdiction. The factors for cancellation of bail are to be considered i.e. conduct of parties after bail

whether accused are misusing the facility of bail or likely to abscond; whether they are hampering the investigation or threatening the witnesses and whether accused are creating obstruction in the course of justice. In the instant case, mere saying so is not sufficient but there must be tangible documentary evidence. Grant of bail to accused is discretionary in accordance with settled norms of justice and for cancelling the bail already granted to accused, there must be grounds warranting interference in the bail granting order unless the accused fails to establish the existence of reasonable grounds leading to a belief that he was not guilty of the offence. Section 497 (5) Cr.P.C. is not punitive in nature and there is no compulsion for canceling bail and it does not command the Court to cancel the bail even when the offence is punishable with death or imprisonment for life and even if the grant of bail is prohibited under section 497 (1) Cr.P.C.

5. In view of the above, instant criminal miscellaneous application is dismissed.

JUDGE