

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD
Cr. Misc. Appln. No.S-641 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(S)
-------------	---

1. For orders on MA-8790/2023.
2. For orders on office objections.
3. For orders on MA-8791/2023.
4. For hearing of main case.

08.09.2023.

Mr. Saeed Ahmed Wagan, Advocate for applicant.

ORDER

ARSHAD HUSSAIN KHAN, J.- The applicant / complainant by way of instant miscellaneous application filed under Section 497 (5) Cr.P.C seeks cancellation of bail granted to respondents 1 to 3 by learned 2nd Additional Sessions Judge, Badin in Cr. Bail Application No.1430 of 2023 (Re-Mst. Rukhsana and others v. The State), arising out of Crime No.90 of 2023 registered at Police Station Tando Ghulam Ali District Badin, under Sections 365-B, 363, 34 PPC vide order dated 12.08.2023.

2. The facts of the case are already stated in the memo of this application, therefore, there is no need to reproduce the same to save precious time of the Court.

3. It is contended by the learned Counsel for the applicant that the respondents / accused after granting bail by the trial Court are misusing the concession of bail by issuing the murderous threats to the applicant as well as his witnesses. He further submits that the respondents / accused were nominated in the FIR with specific roles but the learned trial Court without considering the record has granted bail to them; therefore, he prays that bail of the accused may be recalled.

4. I have heard the learned counsel for the applicant and have gone through the material available on record.

5. It reveals from the record that after registration of case the accused moved an application for grant of pre-arrest bail before

2nd Additional Sessions Judge, Badin, who granted ad-interim pre-arrest bail to them and later on their ad-interim pre-arrest bail was confirmed on 12.08.2023 (impugned order). I have also gone through the impugned order which reflects that the pre-arrest bail was granted to the respondents / accused on the ground that FIR was delayed without plausible explanation and there were general allegations against the accused and further there appeared a matrimonial dispute as Mst. Siyani (the alleged abductee) was not abducted by the respondents/accused but she contracted marriage with one Allah Warrayo son of Ghulam Qadir Khaskheli and such Affidavit as well as Nikahnama have been produced by the respondents' counsel before the trial Court. Therefore, the case of the accused / respondents absolutely falls within the ambit of Section 497(2) Cr.P.C. It is also settled that the principle for granting bail and those for cancellation of bail is altogether different. The strong and cogent reasons are required for recalling of bail granting order. For instance if the bail granting order is perverse or disregard to the settled principle regulating grant of bail. The learned Counsel for the applicant / complainant is unable to put forth any of the above settled principle governing the cancellation of bail. Reliance in this regard is placed upon the case of MUHAMMAD AZHAR v. DILAWAR (2009 SCMR 1202).

6. It is however observed that the grounds 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 of the respondents/accused.

7. In view of the above, the order dated 12.08.2023 passed by the trial Court needs not to be interfered with. Hence, this miscellaneous application is dismissed in limine.

JUDGE

Shahid

