

ORDER SHEET  
IN THE HIGH COURT OF SINDH, BENCH AT SUKKUR.

Crl. Misc. Application No. S- 742 of 2023  
(*Malhar Khan Rind Vs. The State and another*)

DATE	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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1. For orders on office objections at Flag 'A'
2. For orders on MA No. 6319/2023 (Ex./A)
3. For hearing of main case.

**19-04-2024.**

Mr. J.K Jarwar, Advocate for the applicant.

The private respondent in person.

Ms. Shabana Naheed Mughal, Assistant P.G for the State. .

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It is alleged that the private respondent with rest of the culprits in furtherance of their common intention committed murder of Mst. Izzat Khatoon by causing her fire shot injuries, for that the present case was registered.

On having been arrested the private respondent was released on bail on filing of his application u/s 497 Cr.P.C by learned Ist Additional Sessions Judge/(MCTC) Khairpur, the same is sought to be cancelled by the applicant/complainant by making the instant Crl. Misc. Application under section 497 (5) Cr.P.C.

It is contended by learned counsel for the applicant/complainant that the private respondent has actively participated in commission of the incident by instigating rest of the culprits to commit the murder of the deceased; therefore, he ought not to have been released on bail by learned trial Court, which is liable to be cancelled by this Court, which is opposed by learned Assistant P.G for the State and the private respondent in person by contending that his involvement on the basis of vicarious

liability could only be determined at trial. In support of their contention, they relied upon case of *Qurban Ali Vs. The State* (2017 SCMR 279).

Heard arguments and perused the record.

There is delay of three days in lodgment of the FIR. The role attributed to the private respondent in commission of the incident is only to the extent of instigation. Whether he actually participated in commission of incident by instigating rest of the culprits in commit death of the deceased? It requires determination at trial. There is no allegation of misusing the concession of bail on the part of private respondent; as such no case for cancellation of bail to him is appearing to have been made out.

In view of above, the instant CrI. Misc. Application is dismissed together with listed application.

JUDGE

