

**IN THE HIGH COURT OF SINDH**  
**CIRCUIT COURT MIRPURKHAS**

Criminal Bail Application No.S-162 of 2024

*(Mohib & another Vs. The State)*

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<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE</b>
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Date of hearing & Order 26-09-2024

Mr. Malik Bux Mari, advocate for the applicants/accused

Mr. Afzal Karim Virk, advocate for the complainant

Mr. Dhani Bakhsh Mari, Assistant P.G Sindh

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**ORDER**

*Adnan-ul-Karim Memon, J.* The applicants/accused Muhib & Khan Muhammad alias Aborro have filed captioned bail application under Section 497 of the Criminal Procedure Code (Cr.P.C.), seeking their release on post-arrest bail in Crime/FIR No.68/2024 registered under section 302 & 34 P.P.C of Police Station Umerkot City.

2. Previously, the learned trial Court on 3.6.2024 in Criminal Bail Application No.283/2024 declined the post-arrest bail to applicants Muhib and Khan Muhammad alias Aborro on the premise that both the applicants are actively nominated in FIR for causing firearm injuries to deceased Muhammad Hanif; that ocular account is supported by medical and statements of eyewitnesses under sections 161 Cr. P.C, that delay in FIR is no ground to seek bail and the alleged offense carries capital punishment.

3. The defense counsel argued that previous enmity is admitted in the FIR; that FIR was registered with a delay of over 31 hours despite the police station being only 1 kilometer away; that the incident was not promptly reported to the police; that prosecution story is fabricated and unreliable; that witnesses are family members of the deceased; that accused have been in custody since arrest and are no longer needed for investigation. He prayed for a grant of bail to the applicants.

4. The learned APG assisted by the learned counsel for the complainant argued that the bail application is not maintainable due to lack of new grounds. They claimed that the delay in FIR registration was explained and the incident was reported promptly. They also highlighted the applicants' specific nomination for the crime, recovery of crime weapons, and the deceased's death. Therefore, they requested the dismissal of the bail application. The learned counsel relied upon the order dated 07.08.2024 passed by this court in Criminal Miscellaneous Application No.387 of 2024, an excerpt of the order is reproduced as under:-

“This Criminal Misc Miscellaneous Application has been brought under section 497(5) Cr. PC for the cancellation of bail granted to the private respondents by the learned Additional Sessions Judge-I/Model Criminal Trial Court Umerkot in Criminal Bail Application No. 13/2023 vide Order dated 23-02-2023.

2. At this stage, I asked the learned counsel as to how this Criminal Miscellaneous Application is maintainable as the principles governing the grant of bail and the cancellation of bail substantially stand on different footings. Besides, cancellation of bail is a harsh Order because it interferes with the liberty of any individual. Per learned counsel, the private respondents committed a heinous offense and now they are extending threats to the applicant/complainant. Thus, they have misused the concession of bail attracting section 497(5) Cr. P.C.; therefore, the impugned bail-granting Order passed by the trial Court, is liable to be recalled at this stage.

3. When confronted with the legal position of the case, as discussed supra, after arguing the matter at some length, learned counsel for the applicant seeks disposal of this Criminal Miscellaneous Application in the terms that the trial Court may be directed to conclude the trial within two months.

4. The learned Additional P.G. assisted by learned counsel for the private respondents has no cavil to the aforesaid proposition and submits that this Criminal Miscellaneous Application may be disposed of in the terms of the statement of the applicant.

5. The proposal seems to be reasonable and acceded to, with direction to the trial Court to conclude the trial within two months. However, it is made clear that in case of failure on the part of the trial Court to comply with the directions, the matter will be referred to the MIT-II of this Court for placing the matter before the competent authority for appropriate Orders on the administrative side.

In view of the above, this Criminal Miscellaneous Application is disposed of”

5. I have heard the learned counsel for the parties and perused the record with their assistance.

6. The applicants are accused of firing at the victim, resulting in fatal injuries. Medical evidence and eyewitness accounts support the allegations.

7. Keeping in view of the severity of the offense, bail is denied to the applicants at this stage, with direction to the trial Court to conclude the trial within two months. However, it is made clear that in case of failure on the part of the trial Court to comply with the directions as contained in the order dated 07.08.2024 passed by this court in Criminal Miscellaneous Application No.387 of 2024, the matter will be referred to the MIT-II of this Court for placing the matter before the competent authority for appropriate Orders on the administrative side.

8. However, these observations are preliminary and do not affect the trial.

**JUDGE**