

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**  
**Cr. Misc. Appln. No.S-863 of 2024**

<b>DATE</b>	<b>ORDER WITH SIGNATURE OF JUDGE(S)</b>
-------------	---

1. For orders on MA-12643/2024
2. For orders on office objections.
3. For orders on MA-12644/2024
4. For hearing of main case.

**13.02.2025.**

Mr. Abdul Rasheed Abro, Advocate for  
applicant/complainant.

**ORDER**

**ABDUL HAMID BHURGRI, J.-** The applicant / complainant through the captioned Criminal Miscellaneous Application under Section 497 (5) Cr.P.C seeks cancellation of bail granted to respondent 1 by the learned Sessions Judge, Badin in Cr. Bail Application No.1007 of 2024 (Re- Maqsood v. The State), arising out of Crime No.356 of 2024 registered at Police Station Badin, under Sections 324, 436, 147, 148, 149, 504, 427 PPC vide order dated 19.07.2024.

2. The facts of the case are already stated in the memo of this application, therefore, there is no need to reproduce the same for the sake of brevity.

3. The learned counsel contended that the grant of bail to the accused/respondent No.1 contravenes established principles of law, as a specific role has been explicitly assigned to the respondent/accused. He further argued that there exists compelling evidence on record, which unequivocally links the respondent to the alleged offense. He urged that the respondent / accused after granting bail by the trial Court is misusing the concession of bail by issuing threats to the applicant / complainant. He further submitted that the respondent / accused was nominated in the promptly lodged FIR with specific role, however, the learned trial Court by ignoring the same and without considering

the record has granted bail to the accused. Additionally, he submitted that following the grant of bail, the accused resorted to intimidatory tactics, coercing the complainant into withdrawing from the case. He requested that bail of the accused may be recalled.

4. Having meticulously considered the arguments advanced by the learned counsel for the applicant, thoroughly examined the case material, and scrutinized the impugned order issued by the Trial Court, the learned Sessions Judge delivered the following operative findings:

**“Apparently, applicant/ accused person is nominated in FIR with the role that he made fire which hit to tractor. The main contention of learned defence counsel that no any person sustained any injury; apparently from perusal of FIR, no any person sustained any injury. The other main plea of learned defence counsel that there is civil nature dispute between the applicant’s father and one Shakoor; such version was not rebutted by learned complainant’s counsel. The other main plea of learned applicant’s counsel that as per FIR, only one tire of tractor was shown to have been burnt. As per photographs provided by complainant, one cot was shown to have been burnt. S-far plea of learned complainant’s counsel that applicant/ accused is involved in two other cases; admittedly, each case is to be decided on its own facts and circumstances. When as per FIR no any person sustained any injury and no photograph showed the tractor was burnt. Moreover, when during the course of arguments the complainant was asked which tire of tractor either front or rear was damaged, he failed to reply satisfactorily. Moreover there is apparently dispute between the parties over the land, therefore, case of the applicant/ accused needed further inquiry.”**

5. Record reflects that after registration of case the accused moved an application for grant of pre-arrest bail before the learned trial Court, who granted ad-interim pre-arrest bail to him and later on his interim pre-arrest bail was confirmed vide order dated 19.07.2024, which is impugned. Admittedly, there was a dispute between the parties, as disclosed in the memo of FIR as well as trial Court’s order. Furthermore, 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 demonstrate the above settled principle governing the cancellation of bail. The Honorable Supreme Court in the case of MUHAMMAD AZHAR v. DILAWAR (2009 SCMR 1202) has observed as under:-

"6. It needs no reiteration that considerations for the

grant of bail are quite distinct from the consideration for cancellation of bail. Once bail has been granted by a competent Court of law strong and exceptional grounds are required for cancelling the same, as held by this Court on a number of occasions. It is to be seen as to whether order granting bail is patently, illegal, erroneous, factually incorrect and has resulted in miscarriage of justice. Considering the case of the respondent for grant of bail on the above touchstone, we are of the view that learned High Court has rightly reached the conclusion and no exception can be taken to it. The respondent is on bail since 26-1-2009 and he is not shown to have misused the concession of bail. He is entitled to remain on bail "

6. In my tentative assessment, 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 order as impugned.

7. Upon careful deliberation, it is concluded that no cogent grounds have been established by the applicant to warrant the cancellation of bail. The order granting bail, issued by the learned Sessions Court, was founded upon settled legal provisions, and thus, no interference is justified. In such circumstances, the instant application for cancellation of bail is dismissed in limine.

JUDGE

Ahmed/Pa,