

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

Criminal Bail Application No.S-720 of 2021.

DATE	ORDER WITH SIGNATURE OF JUDGE
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For orders on office objections.

For hearing of main case.

05.11.2021.

Mr. Agha Abdul Nabi advocate for the applicants.

Ms. Sobia Bhatti, Assistant Prosecutor General, Sindh.

Mr. Murtaza Ahmed Memon advocate for complainant.

Applicants are present on ad-interim pre-arrest bail.

SIP Sikandar Ali I.O. of the case.

ORDER

MUHAMMAD IQBAL KALHORO, J:- Deceased Ali Bux was brother of complainant who was seen in company of applicants and going to Otaq of co-accused Abdul Raheem in village Fazal Muhammad Talpur where he died. Complainant when such information was conveyed to him on 01.08.2021 at 0140 hours reached there and suspected that deceased had died unnatural death and all present there had a hand in it. He reported the matter to police and accordingly co-accused Abdul Rahim was arrested.

Post-mortem of deceased was conducted and viscerae were sent to lab to ascertain whether he was poisoned or not. Report came in negative and on the basis of which final medical certificate was issued by Medico Legal Officer opining death of deceased as natural and on the basis of which I.O. disposed of the case. He is present in Court and submits that prima facie no evidence was found against the applicants of causing death to deceased and the medical report also shows that no poison was administered to him, hence, he disposed of the case under "C" class. However, when he submitted such report the learned Magistrate did not accept it and ordered for re-investigation which so far has not commenced even.

Meanwhile co-accused Abdul Raheem who was arrested in investigation and from whose otaq dead body was recovered has been granted bail by learned trial Court. It is stated that the case against the applicant is on identical footings.

Learned counsel for complainant has although opposed the bail but has not been able to dispute above facts and therefore has submitted that bail of the applicants may be confirmed and if in re-investigation evidence is found against them or, fresh medical report is issued showing unnatural death of deceased, he may be allowed to file application for cancelation of bail of the applicants. To this proposal learned APG and learned defence counsel have both agreed.

In view of above facts and circumstances, this bail application is allowed and ad-interim pre-arrest bail granted to the applicants vide order 27.08.2021 is hereby confirmed on the same terms and conditions. However, with the caveat that in case in re-investigation incriminating material is found against them in shape of either medical evidence or ocular account, the complainant would be at liberty to move an application for cancellation of bail before learned trial Court first.

The observations made hereinabove are tentative in nature and shall not influence the trial court while deciding the case on merits.

JUDGE

Irfan Ali