

ORDER SHEET
IN THE HIGH COURT OF SINDH, AT KARACHI.

Crl. Bail Application No.185 of 2024.
Crl. Bail Application No.182 of 2024.
Crl. Bail Application No.87 of 2024.
Crl. Bail Application No.88 of 2024.

Date	Order with signature of Judge
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12.02.2024.

Mr. Ghulam Rasool Soho, Advocate for the applicant in Crl. Bail Appln. No.185 of 2024.
M/s. Raj Ali Wahid Kunwar, Naveed Anjum and Talha Akhlaque, Advocates for the applicant in Crl. Bail Appln. No.182 of 2024.
Mr. Aamir Mansoob Qureshi, Advocate for the applicant in Crl. Bail Appln. No.87 of 2024.
M/s. Abrar Ali Khichi and Muhammad Iqbal Awan and Additional Prosecutor General Sindh.
I.O. Sharif Meo, SIP Shahrah-e-Faisal, Karachi.

Mohammad Karim Khan Agha-J; Applicants Abid Shah, Sultan Saleem, Faizan Raza, Muhammad Imran, Muhammad Adnan, Hassan Doni, Hashir and Yawar are facing trial before the IVth Additional Sessions Judge Karachi East in respect of FIR No.1092/2023 U/s. 322, 436, 427, 288, 285, 34 PPC, P.S. Shahrah-e-Faisal, Karachi except for applicants Hassan Doni, Hashir and Yawar who are only facing trial in respect of Section 201 PPC. All the applicants applied for post arrest bail before the court of IVth Additional Sessions Judge Karachi East which was dismissed, as such they have now approached this Court for post arrest bail.

2. The brief facts of the case as per FIR are that on 25.11.2023 at about 5:00 a.m. inside R.J. Mall main Rashid Minhas Road, Karachi a fire broke out and as a result of that fire 11 persons lost their lives and 07 other persons were injured. On account of the aforesaid incident the FIR was lodged against the persons involved in construction of RJ Shopping Centre, persons involved in getting approval of the site plan and for issuance of NOC by the concerned departments despite the poor construction, the present management, and the departments who have not adhered to their

responsibilities, K-Electric and Fire Brigade officials. Therefore, the act of the above mentioned departments amounts to criminal negligence Qatle-Bisabab, causing damages and falls under section 322/436/427/288/285/34 PPC.

3. I have heard learned counsel for the parties, learned Prosecutor General Sind who has been assisted by the I.O. Sharif Meo of PS Shahrah-e-Faisal, Karachi. No doubt this was a very tragic incident whereby 11 precious lives were lost and 07 other persons were seriously injured on account of a fire which as per FIR potentially erupted as a result of short circuit in the building.

4. The applicant Abid Shah was Security Guard, applicant Sultan Saleem was working in Customers Service, applicant Faizan Raza was an Accountant, Applicants Muhammad Imran and Muhammad Adnan were working in an office on the 4th floor of the building while applicants Hassan Doni, Hashir and Yawar were booked after 06 days of the FIR allegedly attempting to destroy evidence. The offence for which the applicants have been charged all carry a maximum sentence which may extend to 10 years and the general rule is that bail should be granted in such like cases unless some exceptional circumstances exist. In this case since 11 persons have lost their lives and 07 had been injured exceptional circumstances might exist, however, when I have considered the role of each of the applicants as set out earlier in this order, it is apparent that none of them had any role in starting fire or were negligent prima-facie in allowing the fire to break out which even as per FIR was potentially on account of a short circuit which has now been confirmed as per annexed inquiry report carried out in respect of fire incident of RJ Mall Rashid Minhas Road as according to that report the fire started accidentally on the 3rd floor of the building and then turned into a full blown out fire which fire spread throughout the building. None of the applicants were present when the fire broke out and prima-facie it is difficult to see how any of them can bear any direct responsibility for the fire and losses of lives which the fire caused. It is also noted that all the legal heirs of the victims did not oppose the grant of bail to all the applicants and that the applicants are entering into a compromise agreement with the legal heirs of the victims which the legal heirs of the

victims have acknowledged in Court. The applicants have already spent about 03 months in Jail and the charge is yet to be framed.

5. Under these circumstances I find that all the applicants are entitled to post arrest bail as it is a case of further enquiry, hence the applicants Abid Shah, Sultan Saleem, Faizan Raza, Muhammad Imran, Muhammad Adnan, Hassan Doni, Hashir and Yawar are granted post arrest bail subject to furnishing solvent surety in the amount of Rs.100,000/- (Rupees one lac. only) each and P.R. Bond in the like amount to the satisfaction of Nazir of this Court. A copy of this order shall be sent to the trial court.

6. Needless to say that the observations made in this order are tentative in nature and shall have no bearing on the outcome of the trial. Before parting with this order.

7. I am extremely disturbed by the fact that the persons against whom the complaint was made against in the FIR namely those involved in the construction of RJ Shopping Mall, persons involved in getting approval of the Site Plan, persons involved in issuing NOC by the concerned departments despite the poor construction and the departments which have not adhered to their responsibilities including K-Electric and Sindh Building Control Authority have been hardly investigated at all and it seems prima-facie that the applicants have been roped in in order to save the skin of those who might bear real responsibility of this fire taking place and the resultant loss of life through their criminal negligence if not worse.

8. As such, I hereby direct that I.O. Sharif Meo be replaced immediately and that an officer of the rank not less than SSP be tasked to carry out and complete the investigation as per FIR against those complained against and proceed in accordance with law.

9. In Karachi in recent times a number of fires have broken out in shopping malls and other commercial buildings which have resulted in loss of lives as a result of poor safety at the work places. A copy of this order shall be sent to IGP Sindh for

compliance. A copy of this order shall also be sent to the Chief Secretary, Government of Sindh who shall ensure that relevant teams inspect all shopping malls in Karachi to ensure that they are complying with all health and safety standards and issue a certificate in respect of the same. It is noted that this incident took place in the early hours of the morning when the shopping mall was closed. Had the incident taken place at 7:00 pm in the evening the loss of life would probably have been catastrophic.

10. These bail applications are disposed of in the above terms. Office to place copy of this order in all the bail applications.

JUDGE

M. Arif