

IN THE HIGH COURT OF SINDH, AT KARACHI
Cr. Bail Application No. 38 of 2022

Applicant : Sher Baz Khan s/o. Sawab Khan and
Muhammad Ullah s/o. Saleh Jan
through Mr. Muhammad Naseeruddin, advocate

Respondent : The State, through Ms. Rahat Ehsan, Additional
Prosecutor General alongwith SIP Muhammad
Zafarullah of P.S. Mochko, Karachi.

Date of hearing : 10.02.2022
Date of order : 10.02.2022

ORDER

ZAFAR AHMED RAJPUT, J:- Through instant Cr. Bail Application applicants/accused Sher Baz Khan s/o. Sawab Khan and Muhammad Ullah s/o. Saleh Jan seek pre-arrest bail in Crime No. 487 of 2021 registered under Section 320, 322, 337-G, 427 P.P.C. at P.S. Mochko, Karachi. Their earlier bail applications bearing No. 6631 and 6684 of 2021 were heard and dismissed by the learned Additional Sessions Judge-I, Karachi-East vide consolidated order dated 8th January, 2022. They were admitted to interim pre-arrest bail by this Court vide order dated 11th January, 2022, now the matter is fixed for confirmation of interim bail or otherwise.

2. It is alleged that on 20th December, 2021 ASI Iqbal Khan, PC Ejaz, PC Meer Hassan and DPC Abdul Qayyun were on patrolling duty in a police mobile and they reached near northern bye-pass road, Mowach Goth, Karachi at 0040 hours where one dumper bearing registration No. TSL-614 came in front of mobile being driven rashly and negligently. The driver stopped the dumper suddenly. The police mobile hit the dumper from back side due to which aforesaid police officials received injuries and later ASI Iqbal Khan succumbed to injuries. The applicants are owner and driver of the dumper.

3. Heard learned counsel for the parties and perused the material available on record.

4. It is an admitted position that the police mobile hit the dumper from back side, which resulted in sustaining of injuries by the police officials including mobile incharge ASI Iqbal Khan, sitting next to DPC Abdul Qayyun, who later on died;

hence, it is yet to be determined after full-fledged trial as to whether the alleged incident took place due to rash and negligent driving of the dumper driver or of DPC of the police mobile; therefore, the case of the applicant/driver for driving rash and negligently and applicant/owner of the dumper for vicarious liability falls within the ambit of further enquiry as envisaged under sub-section (2) of section 497 Cr.P.C.; therefore, the interim bail already granted to the applicants vide order dated 11th January, 2022 is confirmed on the same terms and conditions.

Cr. Bail Application stands disposed of.

JUDGE

Athar Zai