

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH KARACHI**

Crl. Bail Application No. 650 of 2022  
Crl. Bail Application No.1887 of 2021

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**DATE**

**ORDER WITH SIGNATURE OF JUDGES**

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For hearing of bail application.

**19-04-2022**

M/s. Riaz Ahmed Bhatti and Allah Ditta Shakir, Advocates for applicants.  
Mr. Talib Ali Memon, APG a/w DSP Abdul Ghafoor Lakho, SDPO Saudabad,  
I.O. of the case.

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Omar Sial, J: Abdul Hafeez has sought post arrest bail (Crl. Bail Application No.650 of 2022) whereas Zakir Ali and Mashooq Ali have sought pre-arrest bail (Crl. Bail Application No.1887 of 2021) in crime number 618 of 2021 registered under sections 302, 319 and 34 P.P.C. at the Steel Town police station. Earlier, their applications seeking bail were dismissed on 28-1-2022 and 29-9-2021 respectively by the learned 1<sup>st</sup>. Additional Sessions Judge, Malir, Karachi.

2. A background to the case is that aforementioned F.I.R. was registered on 5-9-2021 on the complaint of Dadu. Dadu recorded that his son Ghulam Qadir had ongoing dispute with Jamal and Hafeez (Hafeez is the applicant in Crl. Bail Application No.650 of 2022). On 3-9-2021 an altercation occurred in which Hafeez slapped Dadu and upon his son Ghulam Qadir's intervening, all the 3 applicants Hafeez, Zakir and Mashooq started punching and kicking Abdul Qadir. During this scuffle, something hard hit Ghulam Qadir on his groin region and he became unconscious. The 3 applicants then left the scene. Ghulam Qadir expired two days later on 5-9-2021.

3. I have heard the learned counsel for the applicants as well as the learned Assistant Prosecutor General who is assisted by the I.O. of the case and with their able assistance have gone through the available record. The complainant did not effect an appearance despite notice. My findings and observations are as follows:

4. The record appears to reflect that this incident occurred on 3-9-2021. Abdul Qadir was taken to a nearby hospital by his relatives. The hospital authorities advised him to seek further treatment from JPMC, however the

deceased and his family preferred to go to their village instead of seeking medical treatment from JPMC. Abdul Qadir is said to have expired two days later; however there is no record of intervening two days in terms of his medical condition and medical treatment. The dead body was brought to JPMC and subsequently an FIR was registered. When the dead body was brought, a postmortem was conducted which prima facie reveals that no injury of any kind on the body was found by the doctor, however to opine on the cause of death the doctor had sought some time and finally a provisional postmortem report was issued which concludes that the deceased died a natural death. In view of the provisional postmortem report, the I.O. of the case filed a challan recommending disposal of the case in C class. The family of the deceased was aggrieved by such a recommendation and sought a re-investigation of the case as well as a review of the postmortem report which was issued. As a consequence of their protest, police authorities changed the I.O. of the case and a special medical board was also constituted to determine whether the postmortem report matched the histopathology report. Special medical board gave its opinion which reflects that the board found both of them to be inconsonance. Based on the findings of the special medical board, the second I.O. of the case again filed a report recommending disposal of the case in C class. The learned Magistrate did not concur with his recommendations and took cognizance.

5. Learned APG who was assisted by the I.O. of the case submitted that according to the police investigation, CDR appears to show that the applicant Hafeez may not have been present on the spot when the incident is said to have occurred and that the applicant Zakir was probably at his work place on the date and time when the incident is said to have occurred. While the question of whether or not the applicants were present on the spot will require a detailed review of the evidence led at trial in light of the foregoing findings and two police officers recommendations for disposal of the case in C class it appears that the case of the applicants is one of further inquiry. The bad blood between the parties is admitted as indicated in the FIR which has been lodged and the police findings in its investigation prima facie shows that the complainant may have thrown the net wide on the applicants. Hence, at this preliminary stage, malafide on the part of the complainant cannot conclusively be ruled out.

6. In view of the above, the applicant Abdul Hafeez is admitted to post arrest bail subject to his furnishing a solvent surety in the sum of Rs.200,000 and a P.R. bond in the like amount to the satisfaction of the learned trial court. The interim pre-arrest bail granted earlier to the applicants Zakir Ali and Mashooq Ali is confirmed on the same terms and conditions.

JUDGE

Saleem