

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD
Criminal Bail Application No.S-418 & 419 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE
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15.05.2023

M/s Ghulamullah Chang and Mumtaz Alam Laghari,
advocates for applicants.

Ms. Sana Memon, Assistant Prosecutor General.

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MUHAMMAD IQBAL KALHORO, J.- There is murderous enmity between the parties. A son of a sister of complainant namely Ghulam Shabbir is in jail for committing murder of Babar, who is brother of applicants. It is alleged that on the day of incident viz.15.12.2022 son of the complainant namely Moazam aged about 22/23 years had gone to Shahdadpur to run an errand. He left for his village in the evening. When at about 1845 hours he reached near village Bachal Bagrani on the Road, four (04) accused riding on two motorcycles armed with iron rods waylaid him and caused him blows. Meanwhile, brother of complainant Ali Gul and relative Arbab, who were also riding on motorcycles, arrived at the spot and called out the accused, who then, leaving the injured, decamped. They were identified as applicants, both brothers, and two unknown persons. The said PWs took the injured to police post Jatia, obtained letter for his medical treatment and came at Hospital Shahdadpur from where the injured was referred to Hyderabad. But, he succumbed to injuries on his way. Ultimately, the matter was reported to the Police Station and present FIR was registered.

2. Learned defense counsel have argued that applicants are innocent and have been falsely implicated in this case on account of enmity between the parties; there is delay of two and half months in registration of FIR; that deceased Moazam died due to road traffic accident which is evident from the initial medical certificate issued by the hospital at Shahdadpur and NC No.19 recorded by the police. The postmortem of the deceased too shows that he had died by fall on the road.

3. Learned Assistant Prosecutor General has confirmed that in the postmortem report the Medico Legal Officer has opined that deceased had died by fall on the road.

4. I have considered submissions of the parties and perused material available on record. There is delay of more than two and a half months in registration of FIR which does not seem to be prima facie reasonably explained by the complainant, not least in the context of ongoing murderous enmity between them. Besides, there is a medical report which prima facie shows that the deceased had died by fall on the road which is further evident from the photostat copy of initial medical certificate issued by the hospital at Shahdadpur. In the remarks, it is revealed that it is a case of road traffic accident. All these facts make the case against applicants to be of further inquiry as it is yet to be determined whether the deceased was done to death by the applicants or he died in some road accident as prima facie shown in medical report. Therefore, the applications are allowed and the applicants are granted bail subject to furnishing a solvent surety in the sum of Rs.1,00,000/- (rupees one lac) each and PR Bond in the same amount to be executed to the satisfaction of trial court.

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

Ali Haider

JUDGE