

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
Cr. Bail App. No. S – 669 of 2023

Date of hearing	Order with signature of Judge
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For hearing of bail application

1. For orders on MA No.6856/2023 (U/A)
2. For hearing of bail application

17.11.2023

Mr. Qurban Ali Malano assisted by M/s Israr Ahmed Shah, Syed Naimat Ali Shah and Akhtar Ali, Advocates for applicants along with applicants.

Mr. Manzoor Hussain Mahesar, Advocate for complainant.

Mr. Aftab Ahmed Shar, Additional Prosecutor General.

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Muhammad Iqbal Kalhoro, J. – Complainant, who is mother of deceased Esha, who had married with co-accused Sanwal alias Subhan out of freewill, has alleged in FIR that her daughter was not happy after her marriage, and hence, she had brought her in home where she fell ill. And after 2/3 days, applicants along with her husband came and requested to send her with them. She conceded and she went. But when on 01.09.2023, she wished to talk with her daughter on phone, her husband Sanwal avoided, but she heard her cries. Hence, she came over to the house of her son-in-law, which was found locked. There she was informed by the neighbours that her daughter was taken to Rural Health Centre, Padidan. She went there and found her daughter dead. The accused seeing her slipped away. In the postmortem report, it was confirmed that she had died out of asphyxia through strangulation.

2. Learned Counsel for applicants has argued that against applicants only suspicion has been shown. The main accused, husband of deceased, namely Sanwal alias Subhan, is already in jail, the first IO had exonerated the applicants in the case diaries, and in NC report, no one was nominated by the complainant. There is delay of one day in registration of FIR. He has relied upon the cases reported in **2018 YLR 728** and **2020 P Cr L J Note 59** to support his arguments.

3. Learned Counsel for complainant has opposed this application, but learned Additional Prosecutor General submits that the case against the applicants is one of further enquiry, and the main accused Sanwal is already in jail.

4. I have considered submissions of parties and perused material available on record. Against applicants only suspicion has been shown by the complainant. Complainant is not the eyewitness, nor anyone has come forward to disclose the actual details of the incident. In the first investigation, the deceased was opined to be a case of suicide, but when medical evidence purportedly conflicted such opinion that she had died out of asphyxia, the case was challaned against the accused. The fact that the deceased was taken to hospital by the applicants shows intention on their part to provide immediate first aid to her, and such act does not align with the allegations. Therefore, their role being accomplices with the main accused, husband of the deceased, requires further enquiry, and their false implication on account of strained relationship between the parties over freewill marriage by the deceased with co-accused Sanwal cannot be ruled out.

5. Accordingly, this application is **allowed**, and ad-interim pre-arrest bail already granted to applicants vide order dated 28.09.2023 is hereby **confirmed** on the same terms and conditions.

6. The observations, as above, are tentative in nature and not meant to affect merits of the case before the trial Court.

The bail application stands **disposed of** in the above terms.

Abdul Basit

J U D G E