

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application No. 2419 of 2023
Crl. Bail Application No. 2420 of 2023
Crl. Bail Application No. 2421 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGES
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For hearing of Bail Application

06.12.2023:

All the applicants are present in Court on bail
M/s. Muhammad Daud Narejo, Muhammad Yousif Narejo
and Ms. Anjli Talreja Advocates for the applicants in BA
2419 & 2420 of 2023
Mr. Khalid Hussain Chandio Advocate for the Applicant in
BA No. 2421/2023
Mr. Naseebullah Khan Advocate for the Complainant
Mr. Muhammad Iqbal Awan, Additional Prosecutor General
for the State

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Omar Sial, J: Applicants Muhammad Salim Polani, Raja Aqeel Ahmed @ Abdul Karim, Muhammad Shahabuddin, Muhammad Aqeel and Muhammad Habib Ansari have sought pre-arrest bail in crime number 377 of 2023 registered under section 337-H(i), 337-A(i)/337-F(i), 322, 34 P.P.C. at police station SITE-A, Karachi. Their three separate applications seeking bail were dismissed earlier on 24.10.2023 by the learned 7th Additional Sessions Judge, Karachi-West.

2. The F.I.R. mentioned above was registered on 21.09.2023 on the complaint of Fehmida. Fehmida recorded that on 23.08.2023, her husband, Mehboob Hussain, was assigned welding work by applicant Abdul Karim in his capacity as a contractor. The remaining applicants were all company employees owned by applicant Salim Polani and where the welding work was done. An unfortunate accident occurred while Mehboob Hussain was working, in which he sustained severe burn injuries. Mehboob expired subsequently.

3. Learned counsel for the complainant, assisting the learned Additional Prosecutor General while arguing his case,

submitted that it was confirmed that the incident occurred while Mehboob was working. Still, he blamed the applicants for having not taken enough precautions and then taking time to take the burnt Mehboob Hussain to the hospital. I have heard the learned counsel for the applicants and the learned Additional Prosecutor General for the State duly assisted by the counsel for the Complainant.

3. Offences under sections 337-A(i), 337-F(i), and 337-H(i) are bailable offences where bail is to be granted as a right and not a favour. Reference can be made to Tariq Bashir and 5 others vs The State (PLD 1995 SC 34). An offence under section 322 P.P.C. carries a punishment of payment of diyat.

4. Mehboob had worked for the same contractor in similar conditions for eight years in the incident. He had not complained previously of a lack of safety features in the workplace. Even after the incident occurred, it took the complainant twenty-eight days to report it to the police, and the profile of persons she has held accountable (storekeeper, manager) and the owner of the business, who was out of the country then, suggests that the net has been thrown wide. Malafide on the part of the complainant cannot conclusively be ruled out at this stage.

5. The investigating officer has not collected any reports from boiler inspectors or other industrial experts to show, prima facie, that the premises were death hazards. Upon a tentative assessment, it seems that an unfortunate accident took the life of Mehboob Hussain. Whether the applicants are liable for the incident will be clarified when evidence is led at trial. I do not see any reason to deny the applicant bail.

6. In view of the above, the interim pre-arrest bail earlier granted to the applicants are confirmed on the same terms and conditions.

JUDGE