

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Criminal Bail Application No. 572 of 2024
(Syed Ibrahim Ali Kazmi and another v. The State)

Date	Order with signature of Judges
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For hearing of bail application

22.05.2024

Mr. Ghulam Hasnain, advocate for the applicants
M/s. Shamraiz Khan Tanoli and Muhammad Asif, advocates for the complainant
Mr. Mumtaz Ali Shah, Assistant Prosecutor General for the State

It is alleged that the applicants with the rest of the culprits in the prosecution of their common object to satisfy their grudge against deceased Syed Ali Asghar Kazmi over the sewerage line caused him injury with a brick block which caused his death in hospital, for which the present case was registered.

The applicants having been refused pre-arrest bail by learned XIIth-Additional Sessions Judge, Karachi West, have sought the same from this Court by way of the instant bail application u/s 498 Cr. P.C.

It is contended by learned counsel for the applicants that the applicants are innocent and have been involved in this case falsely by the complainant party; the FIR has been lodged with a delay of about one day; the deceased was sustaining simple injuries and has died of cardiopulmonary arrest; there is no postmortem report on the dead body of the deceased and co-accused Mst. Shireen and four others have already been admitted to pre-arrest bail by the learned trial Court, therefore, the applicants are entitled to be admitted to pre-arrest bail on the point of malafide and further inquiry.

Learned Asstt. PG for the state and learned counsel for the complainant have opposed to grant of the pre-arrest bail to the applicants by contending that the delay in lodgment in the FIR was natural and same even otherwise has been explained in FIR itself; the death certificate

is issued by the authorities concerned; the applicants have actively participated in the commission of the incident and their case is distinguishable to that of the co-accused who have already been admitted to pre-arrest bail.

Heard arguments and perused the record.

The role attributed to applicant Syed Ibrahim Ali Kazmi in the commission of the incident is only to the extent that he undertook a scuffle with the deceased party at the time of the incident. Whether he participated in the commission of the incident with vicarious liability? it requires determination at trial, therefore, interim pre-arrest bail already granted to him is confirmed on the same terms and conditions.

The role attributed to applicant Syed Mohsin Abbas Kazmi in the commission of the incident is to the extent that he caused injury to the deceased on his head with a brick block, which resulted in his death. Of course, there is no postmortem report on the dead body of the deceased but the death certificate issued by authorities at Liaquat National Hospital suggests his death on account of acute subdural hematoma besides cardiopulmonary arrest. Subdural hematoma is a clot of blood that develops between the surface of the brain and the dura mater. The injury sustained by the injured might be simple but it has resulted in his death. The brick block used by applicant Syed Mohsin Abbas Kazmi has been secured by the police, therefore, there appear reasonable grounds to believe that he is guilty of the offence with which he is charged and no case for grant of the prearrest bail to him is made out; consequently, the interim prearrest bail granted to him is recalled.

Instant bail application is disposed of accordingly.

J U D G E