

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Cr. Bail App. No. S – 239 of 2023

(Shahid Mehmood & others v. The State)

Date of hearing : **12.09.2024**

Date of decision : **12.09.2024**

M/s Israr Ahmed Shah and Syed Naimat Ali Shah, Advocates for applicants.

M/s Khan Muhammad Sangi and Sikandar Sadar Siddiqui, Advocates for complainant.

Mr. Shafi Muhammad Mahar, Deputy Prosecutor General.

ORDER

Mahmood A. Khan, J. – By way of this bail application, the applicants seek bail in Crime No.45 of 2023, registered at Police Station ‘C’ Section, Sukkur, under Sections 302, 34, PPC, wherein the applicants, having provided wrong blood group and treatment, are alleged to have caused the death of the complainant’s wife.

2. Learned Counsel for the applicants in the matter contended that there is five (05) months’ delay in lodging of the FIR; that no specific allegation in respect to the specific role has been attributed; that no enmity is coming out from the record. It is further contended that applicant No.2 was brought up in Column-II in the investigation. Learned Counsel has referred to Section 29 of the Sindh Healthcare Commission Act, 2013. It is also contended that case having been matured, the present applicants are not required for investigation, and Section 322, PPC required payment of *Diyat*, being attracted in the matter whereby the prohibitory clause is not available as provided under Section 498, Cr.P.C. Learned Counsel, in this regard, has referred to the authorities reported as **2022 YLR 154** and **2023 P Cr. L J Note 20**.

3. Learned Counsel for the complainant, however, contended that all the accused are mentioned in the FIR; that the applicants have acted in a manner that is resulted into an innocent’s death. It is also contended that

the Sindh Healthcare Commission Act is not a competent law to deal with the matter and a murder has been caused to hide the negligence, as evidence in the matter was misappropriated available by way of record. Learned Counsel has relied upon the case reported as **2023 YLR 69** in support to his contentions.

4. Learned DPG contended that the accused are nominated in the FIR and that prosecution witnesses have implicated the applicants.

5. Having heard the learned Counsels and gone through the record, indeed, severe allegations are present; however, no personal enmity is coming out from the record. The case is already proceeding in the matter, wherein allegations are to be proved, and accordingly, the elements of negligence along with the required conviction and sentencing if available. At present however the applicants having made out a case of further inquiry at least for the determination of individual involvement and responsibility.

6. Irrespective to the same, in order to ensure that the applicants are restricted to proceed with the trial before the relevant Court for which the surety be increased as such, the surety is found liable to be enhanced. Accordingly, following order was passed:

“For the reasons to recorded later on, instant Criminal Bail Application is allowed. Consequently interim pre-arrest bail already granted to the applicants / accused Shahid Mehmood, Farhat Yasin and Muhammad Shoaib alias Shoaib Ahmed in Crime No.45/2023 of Police Station ‘C’ Section Sukkur, for offences under sections 302, 34 PPC is confirmed on same terms and conditions. However, the surety amount of Rs. 50,000/- contained in order dated 12.04.2023 is enhanced to the amount of Rs. 100,000/- each.”

These are the reasons for the same.

J U D G E