

**ORDER SHEET**

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD**

Cr. Bail Application No.S-41 of 2021

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**DATE**                      **ORDER WITH SIGNATURE OF JUDGE(S)**

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1. For orders on office objections.
2. For hearing of main case.

29.10.2021.

Mr. Toseef Ahmed Chandio, Advocate for applicants alongwith applicants.

Mr. Riaz Ali Panhwar, Advocate for complainant.

Ms. Sobia Bhatti, Assitant P.G.

ORDER

MUHAMMAD IQBAL KALHORO, - It is alleged that applicants, who are police officials, came on motorcycles to the cabin of Asif Ali situated near a hotel alongwith co-accused Sadam Hussain, who gave iron clip blows to him in presence of complainant and other witnesses causing his death. Applicants are accused of causing kick and fist blows to him and when complainant and the witnesses tried to intervene to save him, they desisted them by pointing weapons.

2. Learned Defence Counsel has submitted that a false F.I.R has been registered against applicants. In the postmortem report, no mark of violence was found on the deceased; and it has been opined that he has died out of natural death. The case was investigated and was disposed of under “B” Class but when the report was submitted before the Magistrate, he declined and ordered for re-investigation. In the re-investigation, again the case was disposed of under “B” Class but again the learned Magistrate did not agree to it. He further submits that there is admitted previous enmity between the parties, therefore, false implication of the accused cannot be ruled out.

3. On the other hand, complainant’s Counsel has opposed bail and has relied upon the case of ABDUL QADIR and 9 others v. The State (2020 YLR Note 29) and has submitted that the applicants are working in police department and therefore police have done them a favour in investigation and disposed of the case under “B” class. In the Danishnama Certificate, red marks on the body of deceased were found, which is evidence of his murder. Learned

Assistant Prosecutor General, however, has not supported the impugned order in the light of medical evidence and disposal of the case under “B” Class in two investigations

4. I have considered submissions of the parties and material available on record. In the postmortem report, which has not been challenged by the complainant, no mark of violence was found on the person of deceased and he has been opined to have died natural death likely to be out of smoke pollution. The case against applicants after two investigations has been disposed of under “B” class. Although, such opinions have not been accepted by the learned Magistrate, they are a circumstance in favour of applicants indicating that case against them is one of further inquiry and their false implication cannot be ruled out.

5. In view of above facts and circumstances, the applicants have made out their case for pre-arrest bail. Accordingly, this application is allowed and ad-interim pre-arrest bail already granted to them by this Court vide order dated 14.01.2021 is ordered to be confirmed on same terms and conditions as contained in the said order.

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

JUDGE

Shahid