

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Crl. Bail Application No. 755 of 2022
Crl. Bail Application No. 429 of 2022

DATE	ORDER WITH SIGNATURE OF JUDGES
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For hearing of bail application.

28-4-2022

Ms. Urooj Akhlaq, Advocate for both the applicants.
Mr. Ehtesham Zia, Advocate for complainant.
Mr. Talib Ali Memon, APG.
Applicant Imdad Ali is present on interim pre-arrest bail in Crl.B.A. No.429 of 2022.

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Omar Sial, J: Akber Ali has sought post arrest bail (Crl. Bail Application No.755 of 2022) whereas Imdad Ali has sought pre-arrest bail (Crl. Bail Application No.429 of 2022) in crime number 797 of 2021 registered under sections 320, 322 and 114 P.P.C. at the Saddar police station. Earlier, their applications seeking bail were dismissed on 12-2-2022 and 24-12-2021 respectively by the learned 9th Additional Sessions Judge, Karachi South.

2. A back ground to the case is that the aforementioned F.I.R. was registered on the complaint of Muhammad Pervaiz on 17-12-2021 reporting an incident which had occurred earlier that day. Pervaiz recorded that he received a phone call that his brother in law named Imran Khan has met with an accident and taken to Jinnah hospital in a Chhipa ambulance. Complainant reached the hospital and found that his brother in law had expired. Subsequently, complainant learnt that his brother in law was going on his motorcycle when a vehicle driven by the applicant Akber hit his motorcycle and in view of such accident his brother in law had expired.

3. Learned A.P.G. who is assisted by the learned counsel for the complainant has argued that during initial inquiry the owner of the vehicle could not be traced as vehicle was on open transfer letter; that the driver of the vehicle did not possess a driving license. No other argument has been raised either by the learned A.P.G. or by the learned counsel for the complainant.

4. I have heard the learned counsels for the applicant and the complainant as well as the learned Assistant Prosecutor General and with their able assistance perused the record. My observations and findings are as follows.

5. An offence under section 320 P.P.C. is bailable whereas in the circumstances of the present case, prima facie an offence under section 322 P.P.C. requires further inquiry as it is yet to be determined whether driving a vehicle in a rash and negligent manner was sufficient to constitute qatl-i-khata. I am not convinced with the arguments of learned A.P.G. that because the driver of the vehicle did not have a driving license he should be charged with an offence punishable under section 322 P.P.C. There is a letter from the Motor Vehicle Department which states that no driving license has been issued against the NIC number assigned to the applicant Akbar however, the learned counsel submits that Akbar does have a license but that the same is a paper book license and not a computerized one. This aspect of the case also requires further inquiry. I am not satisfied with the arguments raised by the learned counsel for the complainant and the learned A.P.G. that Imdad Ali, owner of the vehicle, is necessarily liable for the acts of his driver Imdad under criminal law. An offence under section 320 P.P.C. is a bailable offence.

6. In view of the above, the applicant Akber Ali is admitted to post-arrest bail subject to his furnishing a solvent surety in the amount of Rs.100,000 and a P.R. bond in the like amount to the satisfaction of the learned trial court whereas the interim pre-arrest bail granted earlier to the applicant Imdad Ali is confirmed on the same terms and conditions.

JUDGE