

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI.
Cr. Bail Appl. No.1647 of 2024
Cr. Bail Appl. No.1631 of 2024

13.11.2024

M/s Tarique Masood and Altaf Ahmed Shaikh, Advocates for applicants in Cr. Bail Appl. No.1647/2024.

Mr. Faisal Aziz, advocate for applicant in Cr. Bail Appl. No.1631/2024.

Mr. Muhammad Siddique Memon, advocate for complainant.

Mr. Saleem Akhtar Buriro, Addl. P.G.

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ORDER

MUHAMMAD IQBAL KALHORO J: Applicants are seeking pre arrest bail in Crime No.159/2024 U/s 319, 34 PPC of P.S. Bahadurabad, Karachi. Applicants are present on interim pre arrest bail granted to them vide order dated 25.07.2024 and 26.07.2024 and matter is fixed for confirmation or otherwise.

2. As per brief facts, complainant's mother was admitted in Federal-B Hospital with Doctor Iqbal on 01.08.2022 for Tracheostomy surgery. He performed the surgery and then for want of DL Bioscopydil, he referred the patient to be admitted in Jamal Noor Hospital being supervised by Doctor Ishtiaq without however, any referral letter for further process. In the said hospital, no proper attention was given to the patient/mother of complainant and suction process, which was to be carried out immediately after admission, was delayed. Complainant raised hue and cry but no attention was paid and ultimately the patient died of choking, hence FIR.

3. At the same time, a complaint was registered with Sindh Healthcare Commission, which took cognizance of the matter, conducted an inquiry and held the applicants as responsible for the demise of the patient. Relevant findings of the Sindh Healthcare Commission in the report dated 04.03.2024 are mentioned in conclusion at page 8.

4. Initially, the FIR was registered u/s 319, 34 PPC but subsequently Challan has been submitted u/s 322 PPC which is a non-bailable offence and punishable with Diyat. For the time being, Challan has been returned to the I.O. for further investigation as apparently he has exonerated applicant Dr. Iqbal from offence against the report of Sindh Healthcare Commission, which has held him responsible.

5. After arguing the case at some length, learned counsel for applicants and applicants present in court have agreed to deposit Diyat amount proportion wise by their share in the trial court within 15 days, as maximum punishment u/s 322 PPC is Diyat only. Learned Addl. P.G. and counsel for complainant have given no objection

to this proposal. The ad-interim pre arrest bail of the applicants is accordingly confirmed on the same terms and conditions. However, if the amount of Diyat is not paid within 15 days by the applicants from today as agreed, these applications shall be deemed to have been dismissed and the trial court would be competent to take action against the applicants including their arrest as the offence is not bailable.

The Cr. Bail Applications are disposed of with consent.

J U D G E

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