

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Cr. Bail. Appl. No.2330 of 2024

Date	Order with signature of the Judge
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02.12.2024

Mr. Abdul Latif Leghari holds brief for Mr. Umar Asad, advocate for applicant No.1
Mr. Aamir Mansoob Qureshi, advocate for applicant No.2
Mr. Asghar Bangash, advocate for complainant.
Ms. Rahat Ahsan, Addl. P.G.

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ORDER

MUHAMMAD IQBAL KALHORO J: Applicants Muhammad Sabir Khan and Muhammad Hanif are seeking pre arrest bail in Crime No.612/2024 U/s 287, 337 F(vi), 34 PPC of P.S. Boat Basin, Karachi. Applicants are present on ad-interim pre arrest bail granted to them vide order dated 10.10.2024 and today matter is fixed for confirmation or otherwise.

2. As per brief facts, complainant is a resident of a building by name Marine Drive, Block 2, Clifton Karachi. On 14.08.2024 when his wife and son Mujtaba aged 11 years were using the lift of the building to go down on the ground floor, the lift suddenly went out of order when only his son entered it and fell on the ground. As a result, son of the complainant sustained injury, damaging his spinal card. Reportedly, currently he is lying on the bed. Applicant Muhammad Sabir is said to be the president of the Union and used to collect Rs.4500/- per month from each flat for maintenance of the building including the lift.

3. In the investigation, it has come on record that Union did not cause any repair work of the lift machine despite complained of, and allowed it to work unattended putting lives of the people in danger. Applicant Muhammad Sabir, the President of the Union, has been held mainly responsible for maintenance work of the building and the lift but due to his criminal negligence, the accident causing permanent paralysis of a son of complainant has happened.

4. Applicant Muhammad Sabir's counsel is absent and I have heard him in person. He has argued that no one has stated a single word against him and it was not his responsibility to maintain the lift. Whereas learned counsel for applicant No.2 Muhammad Hanif has submitted that he is just a member of the management committee of the Union without any responsibility and has not been assigned any specific role in the case.

5. On the other hand, learned APG has opposed the bail stating that in the building there are 250 flats and from each flat Union is collecting Rs.4500/- per month for maintenance of the building including the lift but they are not spending a single rupee on maintenance of the building or lift and are gobbling up the entire amount.

6. Learned counsel for complainant has drawn my attention to page 55 which is a statement of applicant No.1 Muhammad Sabir admitting his guilt.

7. I have considered submissions of the parties and perused material available on record. In the investigation, applicant Muhammad Sabir has been identified by the I.O. to be managing maintenance of the building and the lift from the amounts collected by him monthly wise from each flat. But it seems that he has gobbled up entire amount, committed criminal negligence by ignoring willfully to get the repair work of the lift carried out and thereby putting lives of the residents of the building in peril despite collecting a certain amount from them. Resultantly, the subject incident has occurred and reportedly a child of 11 years has lost movement in his lower body due to damage to his Spinal Card. Due to his criminal negligence in the incident, applicant Muhammad Sabir is not entitled to pre arrest bail which is meant only to save innocent persons from arrest and humiliation in a criminal case in which he has been falsely implicated, therefore, his bail application is dismissed and his ad-interim pre arrest bail order is recalled.

8. Insofar as applicant Muhammad Hanif is concerned, prima facie no role is assigned to him except that he is a member of the managing committee, therefore, his application is allowed and ad-interim pre arrest bail granted to him is confirmed on the same terms and conditions.

The observations made herein above are tentative in nature and would not prejudice case of either party at trial.

The Cr. Bail Application is disposed of.

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