

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Cr. Bail Appl. No.1644 of 2024

18.12.2024

Mr. Aamir Mansoob Qureshi, advocate for applicants.
Mr. Raj Ali Wahid Kunwar, Advocate for complainant.
Ms. Seema Zaidi, Addl.P.G.

=

ORDER

MUHAMMAD IQBAL KALHORO J:- Applicants seeks pre-arrest bail in Crime No.536 of 2024 under sections 319, 34 read with section 302 PPC of P.S. Shahrah-e-Faisal Karachi and are present on ad-interim pre-arrest bail.

2. As per brief facts of the case, that she was married to one Yawar Al Zaman and would live with him in a joint family system in the one and same house. On 15.06.2024 her brother-in-law Khaleeq uz Zaman took her son aged about $\frac{3}{4}$ years for bringing her sister-in-law from Sachal Goth Scheme 33 Karachi and took her son with himself after half an hour he came back along with her sister-in-law and her three children. When she did not find her son with them she enquired about him and the children in the house told her that she was playing with the children on the ground floor. However, after some time when his brother-in-law Khaleeq uz Zaman for bring to gym opened the door of the car, he found his minor son in a deteriorated condition, hence he was taken to Agha Khan Hospital by his father and others but could not survive and died. On 16.06.2024 initially the FIR was registered under section 390 PPC but subsequently on the basis of a statement of complainant and on analyzing CCTV footage of the incident, section 302 PPC was added by the I.O. and the report was submitted before the Magistrate concerned, who by impugned order has accepted the same.

3. Learned defence counsel submits that whether section 302 PPC is applicable in the present facts and circumstances is yet to be determined after recording of evidence; that father of the deceased Hussain is present and according to his version it is a case of accident and his brother and sister have nothing to do with the death of his son. According to him, father is also legal heir and his statement cannot be brushed aside while deciding the right of the applicants to the concession of bail.

4. His arguments have been rebutted by the counsel for the complainant as well as learned Addl.P.G., who submits that the applicants are named in FIR and they have committed the heinous offence of murdering minor son of the complainant.

5. I have considered the submissions of the parties and perused the material available on record. The record reflects that initially FIR was registered under section 319 PPC with the allegations that due to negligence of applicants, minor son of complainant namely Hussain, aged about ¾ years was left in the locked car. However, subsequently on the basis of a statement of complainant recorded after 13 days of the incident on 28.06.2024 section 302 has been added in the case. The challan has been submitted among others under the same provisions of law but the question whether under the facts and circumstances section 302 PPC is attracted or not will be determined only after assessment of evidence to be recorded in the trial. Father of the deceased Hussain is also present and has given no objection to grant of bail to the applicants by stating that it was a case of pure accident in which his wife has over reacted and got the FIR initially registered under section 319 PPC converted into section 302 PPC.

6. In view of above facts and circumstances, I am of the view that case against the applicants in terms of section 302 PPC requires further enquiry and its applicability is yet to be determined in the trial, therefore, this application is allowed and ad-interim pre -arrest bail granted to the applicants is hereby confirmed on the same terms and conditions.

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

8. This Criminal Bail Application is disposed of.

J U D G E

Hafiz