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ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA.  
Crl. Bail Appln. No.S-265 of 2021

Date	Order with signature of Hon'ble Judge
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1. For orders on office objection.
2. For hearing of Bail Application.

Mr. Mohammad Afzal Jagirani, advocate for the applicant, along with applicant.

Mr. Ali Anwar Kandhro, Additional Prosecutor General.

Date of Hearing : 08.09.2021.

Date of decision : 08.09.2021.

ORDER

Omar Sial, J.- Altaf Hussain Jatoi has sought pre-arrest bail in crime number 107 of 2020 registered under sections 302 and 337-G P.P.C. at the Waleed police station. Earlier, his application seeking bail was dismissed by the learned I-Additional Sessions Judge (MCTC), Larkana on 12-6-2021.

2. A background to the case is that Ashiq Ali lodged the aforementioned F.I.R. on 3-11-2020 reporting therein an incident that had occurred on 2-11-2020. He recorded that he along with his brother Ali Bux, Rehmatullah and one other relative Turab Ali were returning home on two motorcycles when they were signaled to stop by a police party but the 4 men did not stop. The 2 motorcycles were chased by the police party in a police mobile during which chase the mobile hit one of the motorcycles on which Rehmatullah and Turab were sitting and the motorcycle fell down injuring the 2 men. Rehmatullah expired subsequently due to the injuries he had sustained.

3. I have heard the learned counsel for the applicant as well as the learned Additional Prosecutor General. While no one effected an appearance on behalf of the complainant despite notice, the legal heirs of the deceased filed their affidavits stating that they had forgiven the applicant. My observations and findings are as follows.

4. The story as narrated by the complainant does not *prima facie* reveal that the applicant, being the driver of the police mobile, has

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committed a pre-meditated and intentional act of murder. The ingredients of a charge under section 302 P.P.C. upon a tentative assessment are not being satisfied. The nexus of the applicant with the offence on this count requires further inquiry. Bias and *mala fide* on the part of the complainant (perhaps due to the fact that the incident culminated in the death of his son) to register this case, cannot be conclusively ruled out however in light of the fact that firstly, admittedly the complainant did not stop when signaled to stop by the police; secondly, by registering a case for murder, when the facts of the matter, as recorded by the complainant, speak for themselves and thirdly, by the legal heirs of the deceased filing affidavits that they have forgiven the applicant. The other offence with which the applicant is charged is one of rash and negligent driving, which offence is a bailable offence.

5. Above are the reasons for my short order of earlier today.

  
15/7/21  
JUDGE