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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Crl. Bail A. No.S-55 of 2019.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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1. For orders on office objection 'A'.
2. For Hearing of bail application.

25.02.2019.

Mr. Athar Abbas Solangi, advocate for the applicant.

Mr. Sharafuddin Kanher, A.P.G.

Complainant Sajan Kosh bearing CNIC No.31304-9358365-5 and P.W Balach bearing CNIC No.43504-0425680-7 are present.

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Muhammad Saleem Jessar, J- Through this bail application, applicant Baloch alias Ahmed Ali seeks his release on post arrest bail in Crime No.07 of 2005 registered at Police Station Haji Khan Shar, District Kashmore @ Kandhkot for offence punishable under sections 302, 427, 428, 436, 148, 149, PPC.

2. The case after thorough investigation was challaned by the police which is now pending for trial before the Court of Additional Sessions Judge, Kashmore.

3. Per prosecution case in an unfortunate incident which occurred in the year 2005, some 157 nominated persons along with unknown persons had assaulted upon the complainant party thereby the house and belongings were set ablaze and in result whereof Maryam daughter of Khuda Bux and Akbar son of Hazoor Bux have lost their lives.

4. Mr. Athar Abbas Solangi, learned counsel for the applicant submits that though two innocent boy and girl babies have lost their precious lives besides certain articles belonging to the complainant were set ablaze but the dead bodies of the minors were not surfaced, therefore, one cannot be booked for such charge. He next submits that co-accused namely, Ghulam Hussain, Ghulam Rasool, Amanullah and

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Azizullah were tried and ultimately acquitted of the charge by the trial Court vide judgment dated 13.02.2015 and the case of present applicant is almost identical to the case of aforesaid accused, who have been acquitted of the charge. Learned counsel next submits that co-accused Habib has been granted post arrest bail by learned Ist. Additional Sessions Judge Kandhkot vide order dated 10.01.2018 and co-accused Toto has been granted post arrest bail by learned Additional Sessions Judge Kashmore vide order dated 31.05.2018 and co-accused Shahoo, Dilmurad and Shahban have been allowed pre arrest bail by learned Additional Sessions Judge, Kashmore vide order dated 13.05.2017 and the case of present applicant is almost on same footings as that of co-accused who have already been extended concession of pre arrest and post arrest bail. Learned counsel next submits that the complainant Sajan and P.Ws Balach and Haji Bagan who are present in Court sworn their affidavits thereby extending their no objection for the release of applicant on bail.

5. Mr. Sharafuddin Kanher, learned A.P.G in view of the above facts and circumstances, raises his no objection to the grant of bail to the applicant.

6. Admittedly, the co-accused Ghulam Hussain, Ghulam Rasool, Amanullah and Azizullah were tried and ultimately acquitted of the charge by the trial Court vide judgment dated 13.02.2015 and the case of present applicant is almost identical to the case of aforesaid accused, who have been acquitted of the charge. Furthermore, some of the accused have been admitted to pre arrest and post arrest bail. Perhaps the learned trial Court has declined the bail to the applicant solely on the ground of rejection of pre arrest bail by this Court. Even after trial upon the basis of evidence, the complainant and the P.Ws have not supported the case of prosecution. Therefore, case of the applicant falls well within the ambit of sub-section(2) of Section 497, Cr.P.C. Reference can be held to the case of Baloo @ Piyar Ali v. The

State reported as (2000 P.Cr.L.J 1508). Accordingly, instant bail application is allowed. The applicant shall be released on bail subject to his furnishing solvent surety in the sum of Rs.150,000/- (Rupees. One hundred and fifty thousand only) and P.R bond in the like amount to the satisfaction of trial Court.


Judge