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ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA
1st Crl. Bail Application No. S- 326 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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1. For orders on office objection 'A'
2. For Hearing of Bail Application

31.10.2017

Mr. Ali Bux Mashori, Advocate for the applicant.
Miss Rubina Dhamrah, ADPP for the State.
Mr. Faiz Muhammad Larik, Advocate for the complainant.

Through instant bail application, the applicant Rajib Ali seeks post arrest bail in Crime No. 17 of 2015 registered at Police Station Airport (Larkana) for offence under section 395, 427, 148, 149, 337-H(ii), 337-F(i), 504, PPC. Earlier, his bail plea was declined by learned VI-Additional Sessions Judge, Larkana vide his order dated 20.05.2017. The case has been challaned and is pending for trial before the Court of VI-Additional Sessions Judge, Larkana vide Sessions Case No. 169/2016 re. State v. Manzoor and others.

2. The crux of prosecution case as unfolded by complainant Ghulam Shabir in his F.I.R on 04.11.2015 is that on the day of incident applicant duly armed with Repeater Gun along with other 11 co-accused persons armed with different weapons including clubs, hatchets forcibly entered into the house of the complainant. It is alleged that after the accused persons controlled over the complainant party, demolished three rooms of the house and when they tried to took away iron TRs and Garders, Mst. Zubeda, wife of the complainant brought Holy Quran and requested them not to do so, whereupon accused persons caused lathi blows to her on different parts of the body. It is alleged that after taking aforementioned material along with

that the accused decamped from the scene of offence. The complainant after obtaining letter from concerned police station provided treatment to the injured Mst.Zubeda. Since the police was reluctant to register the case, the complainant after seeking necessary orders from the Court of law lodged the F.I.R as stated hereinabove.

3. Heard arguments. Perused the record.

4. The bail application is being pressed on the sole ground of rule of consistency. Perusal of the FIR reveals that in all 11 accused persons have been involved in this case. Of them, 10 are enjoying the concession of bail granted by this Court vide Crl. B.A No.S- 602/2015 and Crl. B.A No. S-596/2015 vide orders dated 15.12.2015 and 21.08.2017. It is well settled principle of law that a person cannot be denied the concession of bail whose case is at par of an accused who had already been granted bail. In this respect reference can be had to the case of *Gul Muhammad v. the State (2010 P Cr.LJ 340)* wherein it was held as under:-

“6. Rule of consistency is always taken into consideration by the Courts since long because a person cannot be denied for the grant of bail whose case is at par of an accused who had already been granted bail.

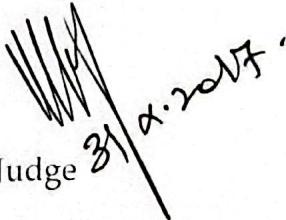
As the Courts have to give equal treatment to the accused person having one and the same role in the same case even according to the Injunctions of Islam and the Constitution of Islamic Republic of Pakistan, 1973 equality between a person is to be maintained and the Courts are always guardian for the right of the people.”

As far as absconson of the applicant is concerned, it is well settled principle of law that if the applicant is able to make out his case on merits then absconsonce will not come in his way. In this regard reference can be had to

the case of Muhammad Aslam v. State (2016 SCMR 1520) where the Honourable Supreme Court while granting bail to the petitioner therein held as under:-

"... It may be true that a person absconding after an occurrence and declared as a Proclaimed Offender may lose his claim to exercise of discretion in his favour by a court of law on the basis of propriety but at the same time it is equally true that an accused person the case against whom calls for further enquiry is to be admitted to bail as a matter of right. It goes without saying that whenever a question of propriety is confronted with a question of right the latter must prevail."

7. In view of above discussion, I am inclined to grant bail to the applicant. Consequently, instant bail application is allowed. The applicant is directed to be released on bail subject to furnishing solvent surety in the sum of Rs.100,000/- with PR bond in the like amount to the satisfaction of trial Court.


Judge 31.10.2017

Abid H. Qazi/**