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ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA

Crl. Bail Appln. No. S- 120 of 2017.

Date of hearing

20.12.2017.

Order with signature of Judge

1. For orders on office objections.
2. For hearing of bail application.

Applicants are present in person (on pre arrest bail).
Mrs. Rubina Dhamrah, ADPP.


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**Muhammad Saleem Jessar, J:** Through this application, applicants Khadim Hussain and Talib Hussain seek their admission to post-arrest bail in Crime No.08/2009 registered at Police Station Garhi Khairo of District Jacobabad, for the offences punishable under Sections 302, 337-H(2), 147, 148 and 149 P.P.C.

The allegation against present applicants as per F.I.R lodged by complainant Mehnaz on 05.03.2009, is that they were in company of principal accused Azad, who fired at deceased, whereas applicants are alleged to have made aerial firing while leaving the scene of alleged offence.

The applicants have taken grounds in the bail application that, no any active role of making fire etc. is assigned to them except aerial firing and that the complainant Mst. Mehnaz alias Maahan Khatoon and one of P.Ws namely, Mst. Shahgul Khatoon alias Shahzadi have filed their affidavits before trial Court extending no objection to grant of pre arrest bail to applicants.

Learned ADPP appearing for the State could not controvert the above grounds urged by the learned counsel for applicants and conceded for grant of bail in view of dictum laid down by Hon'ble Supreme Court of Pakistan in case of *Qurban Ali v. The State and others* (2017 SCMR279).



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Record reflects that, no doubt the applicants have been nominated in the F.I.R, but no specific role of making any effective fire upon any of the member of complainant party including deceased is assigned to them; they are only alleged to have made aerial firing while leaving the scene of alleged offence and it was co-accused Azad who is alleged to have fired at deceased. Moreover, the complainant and one of eyewitnesses have filed their affidavits extending no objection to grant of pre arrest bail in favor of applicants. The applicants have joined the trial and are attending the trial Court regularly.

In view of the above position, interim pre-arrest bail already granted to applicants vide Order dated 06.04.2017 is hereby confirmed on same terms and conditions.

JUDGE

22/04/2017

Ansari/\*