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

Crl. Bail Appln. No. S- 465 of 2017.

Date of hearing	Order with signature of Judge
08.11.2017.	

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

Mr. Wajid Hussain Kazi, Advocate for applicants alongwith applicants.
Mrs. Rubina Dhamrah, ADPP.
Complainant is present in person.
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Applicants Qaisar Khan and Noorullah have sought their admission to pre arrest bail in Crime No.10/2017 registered at P.S Ketī Mumtaz, for offences punishable under Sections 302, 148, 149, 337-H (2) and 397 P.P.C.

As per F.I.R lodged by complainant Sher Muhammad Khuhro on 02.08.2017, the allegation against applicants is that at the time of incident they were present on the spot duly armed with Kalashnikovs, while role of making fire upon deceased has been assigned to co-accused Saifal Bhutto.

Learned counsel mainly, contended that the complainant has himself admitted previous enmity between the parties; that F.I.R is delayed for one day; that mere presence of applicants is shown at the spot; they are not alleged to have fired at any member of complainant party and only role of making aerial firing is assigned to them. Per learned counsel, in these circumstances, the question of sharing common intention/vicarious liability of present applicants with co-accused would be determined at the time of trial. Learned counsel lastly submitted that during course of investigation the applicants were found innocent and their names were recommended for placing in column No.2 of the challan. He has placed on record copy of Order dated 04.10.2017 of S.S.P

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Larkana recommending the name of applicants for placing in column No.2 of charge sheet.

Learned ADPP did not controvert submissions of the learned counsel for applicant; however she half heartedly opposed the bail application. The complainant present in person also opposed grant of application.

Perusal of F.I.R shows that, there is admitted enmity between the parties over landed property. It was co-accused Saifal Bhutto who is alleged to have fired at deceased resulting into his death. No role of making fire upon any member of complainant party except only aerial firing is alleged against applicants, as such their sharing common intention and vicarious liability with main accused would be determined at trial. Moreover, during course of investigation the applicants were found innocent and their names have been recommended for placing in column No.2 of the charge sheet.

In view of above circumstances, the applicants have been able to make out a case for pre arrest bail in their favor. Accordingly, instant bail application is allowed. Interim pre arrest bail already granted to applicants vide Order dated 22.09.2017 is hereby confirmed on same terms and conditions.

JUDGE  
8/11/17

Ansari/\*