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ORDER SHEET
IN THE HIGH COURT OF SINDH CIRCUIT COURT LARKANA
1st Crl. Bail Application No. S- 532 of 2017

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

05.12.2017

Mr. Soofizada Zaheer Mohammad, Advocate for applicants.
Mr. Aijaz Mustafa Samtio, DDPP for the State.

Mr. Abdul Ghafoor Chachar Assistant Executive Engineer present on behalf of complainant Azhar Din SDO Guddu Barrage who reportedly busy in competitive examination however, he has produced his authority letter which is taken on record. Mr. Chachar submits copy of notification issued for promulgation of Sindh Ordinance No.XV of 2011 whereby certain amendments have been made by the legislature/Provincial Assembly, therefore, Governor was pleased to promulgate the same. Per Ordinance, whereby new section 62-C has been inserted in Sindh Act No.VII of 1879, which reads as under:


"62-C.(1)

(2) ..

(3) Whoever fails to vacate the land as required under sub-section (2), shall be punished with imprisonment which may extend to ten years and shall also be liable to fine which may extend to rupees one million:

Provided that the offence punishable under this sub section shall be non-bailable. "

Mr. Chachar further submits that the possession of the disputed bank of the Guddu Barrage has been taken from the applicants and same has been restored to Irrigation department and the applicants are no more in its possession.



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In view of the above and in view of newly amended sections the applicants are not in possession of the disputed bank of the Guddu Barrage, therefore, application of section 62-C (3) of Sindh Irrigation Act, 1879 does not apply to their case. Learned DDPP after going through the above legal position has very candidly conceded for grant of bail. Accordingly, instant bail application is allowed. The interim order dated 02.11.2017 is hereby confirmed on the same terms and conditions. The applicants are directed to join the trial without fail.


Judge

Abid H. Qazi/™