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ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
Criminal Bail Application No. S-139 of 2018

Date Order with Signature of Judge

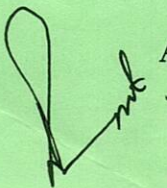
For hearing of bail application.

03.09.2018.

Mr. Mazhar Ali bhutto, Advocate for Applicant.
Mr. Sharafuddin Kanhar, A.P.G for the State

After rejection of his earlier application for grant of pre-arrest bail, vide order dated 16.10.2017, passed by the Court of 1st Addl. Sessions Judge- Kandhkot, applicant/accused Manzoor Ali Kosh s/o Motbar Ali, through instant Criminal Bail Application seeks pre-arrest bail in Crime No. 118/2009, registered at P.S Kashmore, under Section 302, 429, 148, 149, 541, P.P.C. The applicant was admitted to ad-interim pre-arrest bail by this Court, vide Order dated 27.03.2018, now he seeks confirmation of the same.

2. Briefly stated facts of the prosecution case are that, on 14.6.2009 complainant Haji Faiz Muhammad, his son Ali Dost and his cousins Muhammad Arif and Manzoor after having been went to sleep in the house on separate cots, the electric bulbs were on when at about 0200 hours they got up on the barking of dogs and saw 30 accused persons namely Qasim, Jaing, Rehman, Shafi, Ali Gohar, Gulsher, Laalan, Nachan, Hazoor S/O Eisa, Hazuro S/O Muhammad Usman, Kelo, Himat Ali, Ali Gul, Gul Muhammad, Nazir, Yasin, Gullan, Sardar, Kouro, Todo, Bachho, Manzoor, Ghulam, Soobo, Imam Bux, Alamgir and three unknown persons, all armed with K.Ks, standing in the house of complainant. Accused Hazooro fired with his K.K on son of the complainant namely Ali Dost which hit him on his arm, accused Alamgir fired on Ali Dost which hit him on the chest and the remaining



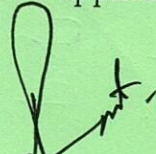
accused also fired upon the complainant party but they saved themselves and thereafter villagers arrived at the scene on that the accused persons ran away, then they saw that Ali Dost had received injuries at his head, chest, arm, legs and other parts and he was lying dead. So also the buffaloes and cows standing in courtyard received injuries and they were also lying dead.

3. Heard the learned counsel for the applicant and learned A.P.G and perused the material available on record.

4. It is an admitted position that no active part or overt act has been attributed to the present applicant in the commission of alleged offence and deceased Ali Dost had not received any fire shot at the hands of present applicant. It is also an admitted position that co-accused Sardar has also been admitted on bail before arrest by the learned trial Court vide order dated 27.2.2017 and the case of the present applicant is almost similar to the case of said co-accused therefore, even on the principle of rule of consistency the applicant deserves the same treatment. It has also been stated that previously case was proceeded and after recording evidence of complainant party, co-accused Alamgir, Imam Bux and Abdul Rehman have been acquitted of the charge by the trial Court vide judgment dated 24.12.2016, the case of said co-accused is also on same footings to the case of present applicant as such the benefit of the aforementioned judgment of the trial Court is likely to go to the present applicant and this fact can also be considered even at the bail stage. The vicarious liability of the applicant in the commission of alleged offence if any shall be determined by the trial Court during course of the trial. Hence at this stage, the applicant has made out prima facie case of further enquiry as envisaged under subsection 2 of section 497 Cr.P.C. Further the applicant was admitted to ad interim

bail by this Court on 27.3.2018 and there is no complaint of misusing of
concession of interim bail, hence the interim bail granted to the applicant
is hereby confirmed on the same terms and conditions.

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JUDGE

