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**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA**  
**Criminal Bail Application No. 386 of 2018**

Date Order with Signature of Judge

For hearing of bail application.

03.09.2018. -----

Mr. Ashiq Ali Jatui, Advocate for Applicant.  
Mr. Ali Nawaz Ghangro, Advocate for Complainant  
Mr. Sharafuddin Kaanhar, A.P.G for the State  
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Having been rejected his earlier application for grant of post-arrest bail in Sessions Case No. 97 of 2018, vide order dated 14.06.2018, passed by the Court of Addl. Sessions Judge-II, Kamber, applicant/accused Abdul Waheed s/o. Abdul Wahab Massan, through instant Criminal Bail Application seeks post-arrest bail in Crime No. 135/2017, registered at P.S Nasirabad, under Section 302, 404 & 34 P.P.C.

2. Briefly stated facts of the prosecution case, as narrated in the F.I.R., are that on 06.12.2018, complainant Abdul Jabbar s/o. Juma Khan, his brother Abdul Fateh and cousin Muhammad Saleem on returning from the fair of Noor Shah reached the land of Fazal Muhammad Massan where his brother Abdul Ghaffar, aged about 35/36 years, was sitting at the edge of the watercourse. It was 08:00 p.m. and they were chitchatting, when they saw on torch light four persons with open faces coming from northern side, out of them two had pistols, who directed them to remain silent as they came to settle the account with Abdul Ghaffar and then one un-identified accused took out a knife from the fold of his shalwar and caused the same at the chest of Abdul Ghaffar with intention to kill him, who fell down crying and then two unknown accused persons strangled his neck till he died and thereafter they fled away on the motorcycle of the deceased.

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3. The learned counsel for the applicant has submitted that the applicant is innocent and has falsely been implicated in this case; that the name of applicant does not appear in the F.I.R. despite the fact that the applicant being relative is known to complainant and P.Ws Muhammad Saleem and Abdul Fateh and he was subsequently implicated in the case on the basis of statements of said P.Ws., recorded under section 161 Cr.P.C.; hence, the guilt of the applicant requires further enquiry.

4. On the other hand, learned counsel appearing for the complainant and A.P.G have opposed this application on the ground that the P.Ws./eye witnesses, namely, Muhammad Saleem and Abdul Fateh in their statements have fully implicated the applicant with the commission of alleged offence by stating that he along with co-accused Saddam throttled the deceased to death; therefore, he is not entitled for concession of bail.

5. I have heard the learned counsel for the parties and perused the material available on record.

6. It is an admitted position that all the four "unknown" persons who reached the spot and committed alleged offence were with open faces. The applicant being relative of the complaint and P.Ws., namely, Muhammad Saleem and Abdul Fateh is known to them but he is not nominated in the F.I.R. and his name was taken by the said P.Ws. subsequently in their statements recorded under section 161 Cr. P.C. on 13.12.2017, after six days of the recording of the F.I.R. Under such circumstances, the guilt of the applicant requires further enquiry as envisaged under Sub-Section 2 of Section 497 Cr.P.C.; therefore, he is admitted to bail subject to his furnishing solvent surety in the sum of Rs.3,00,000/- with P.R. Bond in the like amount to the satisfaction of the Addl. Registrar of this Court.

7. Needless to say that the observations made by this Court are tentative in nature and shall not influence the trial Court while deciding the case on merits and in case the applicant misuses the concession of bail, the trial Court shall be at liberty to cancel the same after giving him notice, in accordance with law.

  
JUDGE

Mr. Aijaz Ali S/o. Ghulam Mustafa  
CNIC No. 43407-0344603-5

Stood surety for applicant(s) / accused (Name(s) a/w CNIC No.)

Abdul Waheed Massan

In the Sum of Rs. 30000/- each Total

Rs. 30000/- On 03.10.2018

Vide Surety Bond No. 291/2018

  
Accountant 03.10.18