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ORDER-SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT LARKANA
Crl. Bail Appln. No. S- 611 of 2013.

Date of hearing	Order with signature of Judge
31.03.2014.	

For hearing.

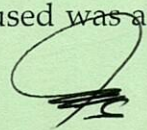
Mr. Shahbaz Ali Khan Brohi, Advocate for applicant.
Mr. Imtiaz Ali Jalbani, A.P.G.

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Through instant application, applicant seeks post arrest bail in Crime No.50/2013, of P.S Sultankot, under Sections 302, 324, 148, 149, 337-H (2) P.P.C.

2. Precisely, the facts of the case are that, on 30.07.2013, the complainant alongwith his brother Muhammad Pinyal, nephews Niaz, Iqbal and cousins Gulzar, Abdul Rasool, Sher Khan and maternal uncles Dad Muhammad and Ismail loaded chaff in trolley at Abdal Shaakh and left for their village. As such at about 12.30 hours when they reached near Madersah, while one white car, and five motorcycles waylaid them. Accused Mustafa, Sardar, Kouro, Soof, Abdul Karim having Kalashnikov type rifles, Himath, Yaqoub, Mazar having pistols, Ali Gohar and six unknown persons having guns alighted from motorcycles. They disembarked complainant party from tractor trolley. Accused Quran and Attur fired at Muhammad Pinyal; accused Shahid, Sheral and Sallah fired at Niaz; accused Kouro, Mazar and Yaqoub fired at Abdul Rasool; accused Sardar Bux and Soof fired at Iqbal, while accused Ghulam Mustafa alias Muhro fired at Gulzar, who sustained injuries and fell down. Complainant party raised cries, which attracted villagers and the accused persons by boarding on their car and motorcycles, fled away. The complainant party came over injured and found Muhammad Pinyal, Niaz Ali lying dead while Abdul Rasool, Iqbal and Gulzar were crying being injured. The complainant party removed injured persons to hospital, but injured Abdul Rasool and Iqbal succumbed to injuries on the way to hospital, while Gulzar was referred to Karachi, who also succumbed to injuries at Karachi. The complainant then returned to police station Sultankot and lodged F.I.R.

3. It is further revealed that during investigation applicant alongwith co-accused was arrested; both were put into identification parade, where they were





identified by the complainant party, thus they were arraigned before the trial Court.

4. Learned counsel for the applicant inter-alia, contended that the complainant and applicant have old blood feud; name of the applicant does not transpire in F.I.R; no recovery has been effected from the applicant; even no specific role is assigned to the applicant, therefore, he is entitled for bail.

5. On the contrary, learned A.P.G. contends that this is case of murder of five persons; during identification parade the applicant and co-accused were identified; enmity is not reflected as complainant has not named applicant in F.I.R, but during investigation his name was revealed, therefore, such plea is without substance.

6. Heard counsel, perused the record.

7. No doubt, the name of applicant is not appearing in the F.I.R, but this is a case of heinous nature, wherein five persons have lost their lives and one received injuries. During identification parade, the eyewitnesses identified the applicant and another co-accused with specific plea that *he is the same accused*, therefore, with regard to the plea that common intention can be determined at the trial, suffice to say that in every case common intention cannot be examined by same yardstick, it depends upon case to case. Here, when patently this is case of five persons' murder; witnesses have identified the applicant, therefore, circumstances reflect that common intention of applicant is very much available, hence prima-facie reasonable grounds exist that applicant has committed offence, which falls within the prohibitory clause of Section 497 Cr.P.C.

8. Keeping in view the given circumstances applicant has failed to make out his case within the purview of subsection 2 of Section 497 Cr.P.C. Consequently, the bail application stands dismissed.

9. Needless to mention here that observations made hereinabove are tentative in nature and will not prejudice the case of either party.

  
Judge