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

**Criminal Bail Application No. S-139 of 2017**

Applicant: Ahsan Ali Shah s/o. Sikander Ali Shah,  
through Mr. Ahsan Ahmed Qureshi.

Respondent: The State, through Mr. Sharafdin Kanhar, A.P.G.  
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**Criminal Bail Application No. S-411 of 2017**

Applicant: Rabail Shah s/o. Abbas Ali Shah,  
through Mr. Ahsan Ahmed Qureshi.

Respondent: The State, through Mr. Sharafdin Kanhar, A.P.G.  
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Date of hearing: 03.09.2018  
Date of order: 03.09.2018  
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ORDER

Zafar Ahmed Rajput, J:- By this common order, I intend to dispose of both above listed bail applications, as the same being arisen out of same crime viz. F.I.R. No. 6 of 2017, register at P.S. Arija, Distract Larkana under Section 302, 148,149,34 P.P.C., have been heard by me together.

2. Through Criminal Bail Application No. S-139 of 2017, applicant Ahsan Ali Shah s/o. Sikander Ali Shah and by means of Criminal Bail Application No. S-411 of 2017, applicant Rabail Shah s/o. Abbas Ali Shah, have sought pre-arrest bail in aforementioned Crime/F.I.R. Their earlier application for grant of pre-arrest bail bearing No. 349 of 2017 was heard and dismissed by the learned Sessions Judge, vide order dated 24.03.2016. They were admitted to ad-interim bail by this Court vide orders dated 17.04.2017 and 30.08.2017, now they matters are fixed for confirmation of their ad-interim bail or otherwise.

3. Briefly stated facts of the case are that on 19.01.2017, complainant Syed Misri Shah lodged the aforementioned F.I.R., alleging therein that he has dispute with Sikander Shah and others over land, on that they used to issue threats to them to cause harm; that on 28.01.2017, his brother Syed Nadeem Shah and

relative Gulab Shah and Amir Shah came to his house and they were sleeping after having dinner when at about 3:00, they woke up on noise and saw Sikander Shah, Ahsan Shah, Rabail Shah with pistol, Bachal Shah with repeater and one unknown person standing over the cot of Nadeem Shah; that Bachal Shah and Rabail Shah pointed their weapons at them and asked them to keep silence, while Ahsan Shah and unknown person caught hold of Nadeem Shah from his arms and Sikander Shah throttled Syed Nadeem Shah, who died on the spot.

4. Learned counsel for the applicants has contended that the applicant are innocent and have falsely been implicated in this case; that only presence of applicant Rabail Shah has been shown in the F.I.R; the alleged offence is said to have taken place in odd hours of the night and the source of identification of the accused has been disclosed as bulb light, which is a very weak type of source and cannot be relied upon; that the parties are already on inimical terms with each other and applicants party had already registered three F.I.Rs against the complaint party; that as per the Cr. Misc. Application No. 761 of 2017, filed by the wife of the deceased, under section 22-A (6) (iii) Cr. P. C, before the Ex-Officio Justice of Peace, she was with her deceased husband and she had identified all the culprits including present complainant, who committed murder of her husband; hence the guilt of applicants calls for further inquiry entitling them for the concession of bail.

5. On the other hand, learned A.P.G. has vehemently opposed this application for grant of bail on the ground that the accused in prosecution of their common object committed the alleged murder of the brother of the deceased; that the medical report also corroborates the unnatural death of deceased in a manner narrated in the F.I.R.; that Mst. Salma, the wife of the deceased in fact attempted to facilitate the accused by making alleged Cr. Misc. Application to Ex-Officio Justice of Peace for ulterior motives; therefore, applicants are not entitled to the bail.

6. I have considered the arguments advanced by the learned counsel for the accused APG as well as perused the material available on record.

7. It appears that the both the applicants have been nominated in the F.I.R. by names for causing murder of Syed Nadeem Shah, the brother of the complaint with motive. The un-natural death of the deceased is supported with medical report. The alleged offence has taken place in the house of the complainant wherein the accused entered duly armed with pistol and repeater. Applicant Rabail Shah, along with co-accused Sikander Shah, Ahsan Shah and Bachal Shah standing over the cot of deceased Nadeem Shah, and he as well as co-accused Bachal Shah pointed their weapons at the complainant party and asked them to keep silence, while applicant Ahsan Shah caught hold of Nadeem Shah from his arms and principal accused Sikander Shah throttled Syed Nadeem Shah, who died on the spot; thus, both the applicants facilitated the principal accused to commit the alleged murder. From the tentative assessment of the evidence in hands of prosecution, I am of the view that prima-facie sufficient evidence is available against the applicants to connect them with the commission of alleged offence, carrying punishment for death and imprisonment for life. The counsel for applicants has not been able to point out any special feature of the case entitling applicants to grant of extra-ordinary concession of pre-arrest bail. Pre-requisites for such concession i.e. malice and ulterior motive, either on the part of complainant or the police are conspicuously missing in the case. Accordingly, both the bail applications are dismissed and the interim order dated 17.04.2017 and 30.08.2017 stand recalled.

8. Needless to mention here that the observations made herein-above are tentative in nature and would not influence the trial Court while deciding the case of accused on merits.

(Zafar  
Sd-  
Abu Rajput-  
Judge)