

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

Crl. Bail Appln. No. S- 263 of 2017.

Date of hearing 15.08.2017.	Order with signature of Judge
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Applicant present in person.  
Mr. Aijaz Mustafa Samtio, DDPP.

Omar Sial, J: Applicant Panah Lashari has sought pre-arrest bail in Crime No. 24 of 2009 registered under Sections 302, 337-H (2) and 149 PPC at the Mubarakpur Police Station. Earlier, the Applicant's pre-arrest bail was declined by the learned Sessions Judge, Jacobabad, vide Order dated 16.06.2017.

2. Brief facts of the prosecution case are that on 06.6.2009, complainant Mst. Sardar Khatoon Lashari lodged the aforementioned FIR stating therein that there is a dispute with one Jabbar Lashari and others due to matrimonial affairs. Earlier that night, Jabbar Lashari along with Razak Lashari, Zafar Lashari, Qamber Lashari, Malhoo Lashari, the Applicant and one unidentified person all armed, barged into the house of the complainant where she was asleep with her three sons. Jabbar instigated the other persons and then proceeded to shoot her son Yousuf. The assailants then left the scene while resorting to aerial firing. Yousuf succumbed to his injuries.

3. I have heard the Applicant in person as well as the learned DDPP. My observations are as follows.

4. The Applicant is an old man who appears to be also infirm. He was arrested after 8 years of the incident. The learned DDPP has argued that the Applicant is not entitled to bail on the ground of abscondence alone. The Applicant has argued that he lives in Balochistan and had no knowledge of the case pending against him. It is true that an absconder from law loses some of his rights however, the mere fact that

he has been an absconder in itself alone may not be sufficient to keep a person behind bars. It will have to be determined after evidence is led whether the abscondence was deliberate and intentional. Further, there is no overt role assigned to the Applicant. His presence while armed is only alleged. Whether the Applicant shared a common intention with Jabbar Lashari or not to make him vicariously liable for his act, will also have to be determined after evidence is led. The Applicant has argued that it is solely with ulterior motive and malafide that the present case has been filed against him because of unhappiness between the parties over a certain marriage. There is an admitted enmity between the complainant and the accused party and as all members of the same family have been nominated, at this stage it cannot be conclusively ruled out that the net may have been thrown wide by the complainant. Due to the foregoing facts the case of the Applicant warrants further enquiry.

5. Above are the reasons for my short Order dated 15.8.2017, in terms of which the interim pre-arrest bail granted to the Applicant by this Court vide an Order dated 21.6.2017 was confirmed on the same terms and conditions.

  
JUDGE 8/9/17

Ansari/\*