

ORDER BELOW EXH-43 IN SESSIONS CASE NO.54/2015
State Vs. Sayed Nazim and others.

1 This is an application for regular bail filed on behalf of accused no.5 in the present matter. His earlier application was rejected by the present court. The applicant/accused is in judicial custody since 24-07-2015. One thing I want to mention in the very beginning that, present application was filed on 20-03-2017 and was thereafter never pressed on behalf of the Adv. of present applicant. Today the learned Adv. for the present applicant filed an application below Exh.52 and prayed to decide the present application. At the time of hearing, the learned Advocate did not appear before the court despite of repeated calls of his name. Therefore, the present application is being decided on merits after hearing the learned APP.

2- That, complainant Aklesh @ Ashok Balsingh Solunke resident of Bandnagar, Tq. Punasa, Dist. Khandwa (M.P.) lodged a complaint at Loha police station on 16-07-2015. he alleged that, he was working as a cleaner along with Arjun Parmar on truck no. MH 09- HG- 516. The truck driver's name was Gulabsingh resident of Dodwa Tq. Khargun, Dist. Khandwa (M.P.). He alleged that, on 15-07-2015 at about 7.30 p.m. while he was proceeding from Latur to Pritampur for delivery of black soil, at about 2.30 a.m. they came near village Karegaon, Tq. Loha. Arjunsingh noticed that, three motorcycles were following them and all of sudden one motorcycle came from the side of truck and told the driver to stop the truck. He alleged that, there were in all 7 accused and they forcefully entered into the cabin of truck and pushed down the driver of truck. Thereafter, the accused assaulted him

and Gulabsingh and took away their mobiles. One of the accused threw Arjunsingh out of the truck and therefore he died after sustained grievous injuries due to the fall. They further threatened the complainant and took away his bag and identity card. He thereafter went to the nearby Gurudwara and then the police were informed. The injured were sent to the civil hospital, at Nanded.

3- The applicant i.e. accused no.5 stated in his application that, he is innocent and is not concerned with the said crime. He stated that, there was no identification parade conducted subsequent to his arrest. No witness had named him in entire charge sheet. He further submitted that, he has no past criminal antecedent and he was falsely booked in the present crime on suspicion. He alleged that, the recovery alleged to be shown at his behest under section 27 of the Evidence Act is delayed and false. He submitted that, there was inordinate delay in conducting the test identification parade which is fatal to the case of prosecution. He further stated that, he was arrested on 02-08-2015 and there is no positive progress in the trial. He further pointed out that one of the accused Gautam Laxuman Raut was released by the Hon'ble High Court and therefore on the grounds of parity he should also be released on regular bail. He further submitted that he is a karta of his house and is having movable and immovable property. He stated that, there are no chances of his absconding while the trial is pending. He finally prayed to be released on regular bail.

4- The say of the learned APP was called. He stated that, earlier bail applications of the present applicant and the other accused

were rejected. Therefore, this application should also be rejected. The learned APP in his argument stated that the present applicant had committed murder of the co-cleaner of the complainant while committing dacoity. The applicant is an habitual offender and therefore, his application should be rejected.

5- I have gone through the papers filed on record. The deposition of witnesses has already begun. The complainant is yet to be examined. There are serious allegations of murder committed by the accused in the present matter while committing dacoity. Further the applicant has only mentioned about the order of Hon'ble High Court through which one of the accused in the present crime was granted bail. Though he prayed for parity on the basis of the said order but, the details of the said order of the Hon'ble High Court are missing in the present application. Besides that, most importantly, the voter identity card of the complainant was recovered from the house of the present applicant, in pursuance of his memorandum statement. The learned Adv. for the applicant also did not remain present for hearing of the present application and left the court after moving an application below Exh. 52. Therefore, in the circumstances, I am not inclined to allow the present application as it would hamper the progress of the trial.

ORDER

Application is rejected and disposed off.

Sd/-

Date 16-02-2018.

(V. S. Gaik)
Addl. Sessions Judge, Kandhar.

CERTIFICATE

I affirm that the contents of this PDF judgment /order
are same word to word as per the original order.

Name of the Stenographer:- A. M. Onkare.

Court Name:-District Judge-1 & Additional Sessions Judge, Kandhar

Date:- 16-02-2018

Judgment/order signed by the Presiding Officer On:- 16-02-2018

Judgment/order uploaded on :- 23-02-2018

