

Sessions Case No. 10 of 2024**The State of Maharashtra**

Vs.

Shaikh Taussif Shaikh Lal**ORDER BELOW EXH. 3**

[1] Accused - **Shaikh Taussif Shaikh Lal**, has filed this application for grant of **bail** under section **483** of the Bhartiya Nagrik Suraksha Sanhita.

Brief facts of the prosecution case are as under :-

[2] Deceased Afzal Ali was the son of informant – Hssain Ali. The deceased along-with his wife was residing separately. He was working in the Powerloom factory of one Shaikh Faiyyaz.

[3] On 20.09.2023 at about 7.30 a.m., the informant had been to his house. At that time, Shaikh Faiyyaz made phone call and informed him that his son Afzal Ali had minor quarrel with the accused on 19.09.2023 at about 7.00 p.m. Hence, out of the said quarrel, the accused assaulted the deceased by iron cutter on 20.09.2023 at about 7.00 a.m., and caused him severe injuries.

[4] Thereafter, the informant along-with Shaikh Faiyyaz went to Civil Hospital, Malegaon where he found that Afzal Ali was having incised wound caused by sharp weapon. His health condition was critical, hence, he was referred to Sahara Hospital for further medical treatment.

[5] On the same day, the informant lodged FIR against the accused. Accordingly, crime vide C.R.No. I -237/2023 came to be registered. Initially offence under section 307 of the Indian Penal Code was applied in the matter. On that day, the accused came to be arrested. Thereafter, on 27.09.2023 Afzal Ali died, when he was undergoing medical treatment. Hence, offence under section 302 of the IPC, came to be added in the matter. Then, investigation of the crime was completed and charge-sheet has been filed. The accused is in Judicial Custody. Hence, he has filed this application for grant of bail.

[6] I have heard both the sides and perused the material placed on the record.

[7] On going through the material placed on the record, it appears name of the accused is specifically mentioned in the FIR. No doubt, there is few hours delay in lodging FIR. However, considering the facts and circumstances of the case, I am of the opinion that the delay is not deliberate and intentional.

[8] During the investigation, the Investigating Officer has recorded statements of three eye witnesses viz. - (i) Shaikh Niyaz Shaikh Bismilla, (ii) Shaikh Sajid Shaikh Mustafa and (iii) Abid Ali Maqsood Ali. Their statement show that the accused assaulted the deceased by sharp weapon and caused him grievous bleeding injury. Moreover, the Investigating Officer could seize one cutter under section 27 of the Evidence Act, at the instance of the accused only. Evidence of eye witnesses is corroborated by the medical evidence also. So also there are statements of many witnesses to show that one day prior to the incident, the deceased had quarrel with the accused and even before the incident, they had quarrel on account of touching hot part of powerloom machine to the deceased. Thus, there is prima facie material to show involvement of the accused in this crime. Nature of the offence is serious. In the circumstances, if the accused is granted bail, possibility of his absconding and tampering with the prosecution evidence, cannot be ruled out. Hence, it would not be just and proper to grant bail. In the result, the application deserves to be rejected. I, therefore, pass the following order. :-

ORDER

Application is rejected.

Date – 05.08.20224

(S.B. Bahalkar)
Additional Sessions Judge,
Malegaon.

Order below Exh.33 in S.C. No. 37 of 2016

**The State of Maharashtra
Vs.
Nadim Ahmed Maqsood Ahmed and another**

'Order below Exh.33

I have perused the application and say filed by the learned Advocate for the accused persons.

2. Record shows that the matter is about 8 years old. Already three witnesses have been examined by the prosecution. Thereafter, witness summons was issued to the Investigating Officer. However, the prosecution could not secure his presence. Therefore, the learned APP has filed this application for re-issuance of witness summons to the Investigating Officer. However, considering the oldness of the case, evidence of three prosecution witnesses and the material placed on the record, I am of the opinion that no purpose of the prosecution would be sufficed by recording evidence of the Investigating Officer. Hence, the application is rejected. The matter shall proceed for recording of statement of the accused persons, under section 313 of the Cr.PC.

(S.B. Bahalkar)

Date – 05.08.20224

**Additional Sessions Judge,
Malegaon.**