

Sessions Case No. 96 of 2023

State of Maharashtra

Vs.

Accused No. (5) - Gaurav Sahebrao Gaikwad**ORDER BELOW EXH. 2**

Accused No.(5) - **Gaurav Sahebrao Gaikwad** has filed this **Second** application for grant of bail under Section **439** of the Code of Criminal Procedure.

[2] **Brief facts of the prosecution case are as under :-**

Informant – Abdul Salam Nijamuddin Khan is serving as Recovery Agent in K.D. Ispat India, which is running business of tin sheets and iron angles. On 25.04.2023 at about 9.30 a.m., the informant along-with his relative Niyaj Ahemad started their work of recovery of money from their customers. Both of them were on their motorcycle bearing Reg.No. MH.-41/-AU-7729. On that day, till 3.30 p.m., they collected cash of Rs.16,93,500/- from various customers and proceeding by their motorcycle towards Malegaon from Nampur. When they reached near Jai Shankar Petrol Pump at Wadner, one white coloured Bolero Jeep came from their backside and gave them dash due to which they skidded upto 50 feet on the road. Thereafter, the said Bolero Jeep stopped. Suddenly, two persons came there on one black coloured Pulsar motorcycle, out of

them one snatched bag containing the said cash of Rs.16,93,500/- from the informant and fled away. In the said incident, the informant and his relative Niyaj sustained injuries. The by-passers took them to Civil Hospital, Malegaon. Police came there and recorded statement of the informant. Accordingly, crime vide C.R.No. I-131/2023 under sections 394 r.w.sec. 34 of the IPC, came to be registered.

[3] Accused No.(5)**Gaurav Sahebrao Gaikwad**, was arrested on 02.05.2023. His First Bail Application bearing No. 329 of 2023 came to be rejected on 12.06.2023. Now, investigation is completed and the charge-sheet is filed. Hence, he has filed this ***Second*** application for grant of bail on the ground of change in circumstances.

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

[5] It appears that the present accused was forwarded to police custody remand. However, during the period of police custody, nothing incriminating has been seized from this accused. It is not the case of the prosecution that the informant and his accompanied were knowing this accused prior to the incident. In the circumstances, to connect the accused with this crime, his test identification parade was necessary. Test identification parade of this accused was conducted. Panchanama of Test Identification Parade of this accused was

prepared by the Executive Magistrate, clearly speaks that the witness has not identified accused – Gaurav Sahebrao Gaikwad. Thus, there is no prima facie evidence to connect the accused with this crime. Investigation of the crime is completed and the charge-sheet is filed. Nothing remained to be discovered or recovered from this accused. There is no likelihood of taking the matter for final hearing in near future. Therefore, no purpose of the prosecution would be sufficed by keeping this accused behind bars for indefinite period as pre-trial punishment. His presence can be secured by imposing certain terms and conditions. I am, therefore, inclined to grant bail to this accused. I, therefore, pass the following order. :-

ORDER

[1] Accused No.(5) **Gaurav Sahebrao Gaikwad**, be released on his executing PR. Bond of Rs.50,000/- (Rs.Fifty Thousand only) with surety of like amount on conditions that :-

(a) he shall remain present before the I.O. on every **Sunday** from 11.00 a.m. to 1.00 p.m. at **Wadner Khakurdi Police Station, Malegaon, Tal. Malegaon** till next **60** days.

(b) he shall not tamper with the prosecution evidence and shall co-operate with the police machinery as and when required.

(c) he shall produce on record proof of his permanent residence at the time of furnishing bail.

(S.B. Bahalkar)

Additional Sessions Judge,
Malegaon.

Date : 20.09.2023