## Order below Exh.1 in Cri. Bail Application No.347 /2022 (Sultan Babu Shaikh Vs. State)

This is an application, for bail u/s. 439 of the Cr.P.C. in Crime No.I-59 of 2022 registered with Bhadrakali Police Station, Nashik u/ss. 395,452,504,506 of The Indian Penal Code(IPC).

- 2. The learned counsel Mr. F.A.Inamdar for the applicant/accused 5 submits that, he is innocent person and he has been falsely implicated. Applicant/accused 5 is ready to abide by any of the terms and conditions to be imposed by this Court. Applicant/accused 5 is labour and only earning member of his family. He was arrested on 07.03.2022 and at present he is remanded in judicial custody. He has got fixed and permanent place of residence, and undertakes to cooperate investigation.
- 3. Learned A.P.P. Mr. R.M. Baghdane, by filing pursis (Exh.7) adopted say (Exh.6) filed by Investigation officer (I.O.) and strongly objected this application. He contends that, applicant/ accused 5 is habitual offender, the offence is serious in nature and exclusively triable by Court of Sessions. Investigation is incomplete and property is yet to be recovered. The applicant/accused 5 may tamper or hamper prosecution witnesses or evidence. I.O. present.
- 4. Perused record. Prosecution's case is that, while the informant was present near his house at stall, accused person namely Pappi,Bablu, Guddu @ Butkya, Saijuddin, Sultan/accused 5 and Rimya came there. Pappi asked informant, as to where is his son Badshaha to which informant told that, he did not know. Bablu told informant to tell his son Badshaha that he is going to contest election of Municipal Corporation and tell him to do his work only. Pappi slapped informant and pushed him aside and without consent of the informant forcibly took away Rs. 1,200/- from his cash counter. Thereafter, all the five accused persons entered into the house of Firoz, the elder son of the informant, abused in filthy language and slapped three daughters-in-law of the informant and threatened.
- 5. Applicant's case is that informant's son Samir @ Badshaha is a habitual criminal and various cases are pending against him. He had demanded extortion amount of Rs. 3,00,000/- from Samir Rafiq Shaikh the younger brother of applicants 1& 2. As he refused, on 06.03.2022 at about 7.30 p.m., Samir @ Badshaha, his brother Riyaj Bochya, Yakub Shaha, Firoz Shaikh, Atik @ Gendya Ansari, Sadab @ Saddu Shaikh,

Imran Kureshi @ Ghoshwala accosted Samir Rafiq Shaikh, brother of applicants 1 & 2 started abusing pushing and beating him, as he did not satisfy extortion amount. Hence, he lodged FIR bearing C.R.No. 58/2022 u/s.307,143,147,148,149, 504, 506 of IPC against them.

6. Applicant/accused 5 is a labour. At present, he is in judicial custody. Nothing has been recovered at his instance. Three of the accused namely (1)Moinoddin Rafiq Shaikh,(2)Aasif AbdulRafiq Shaikh & (3) Shahjoddin Safhit Shaikh have been released on anticipatory bail by this court, by order dated 11.03.2022 in Cri. Bail Application No. 318/2022. He is permanent resident of Nashik. In the circumstances, custodial interrogation is not all required for the purpose of investigation on the above grounds. Though,learned A.P.P. contends that, applicant/accused 5 has got criminal antecedents, he may commit similar offences in the future, may create law and order problem and abscond but that cannot be considered as satisfactory grounds to deny bail. No purpose would be served by keeping the applicant/accused 5 behind the bar for indefinite period and attendance may suffice the purpose. In the result, I pass the following order.

## **ORDER**

1. This application stands allowed.

Date: 21.03, 2022.

- 2. The applicant/accused 5 Sultan Babu Shaikh, shall be released on bail on executing personal bond of Rs.15,000/-, with one surety in the like amount.
- 3. Applicant/accused 5 shall not leave India without prior permission of the Court.
- 4. Applicant/accused 5 shall not tamper with the prosecution witnesses.
- 5. He shall attend the police station for one week from the date of his release between 11 a.m. to 01 p.m. or as and when called by I.O. under prior written intimation.

( **S.T. Tripathi**)
Additional Sessions Judge-7,
Nashik