

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 763 OF 2019

Dhavaikumar @ Gokul Rameshbhai
Patel, Age 27 years, Occu. Service,
R/o. Kobu, Tq. Becharji,
Dist. Mhaisana (Gujrath),
A/p. S. K-2 Block No. 124,
Pandesara, Tal. & Dist. Surat.

....Petitioner.

Versus

1. The State of Maharashtra,
Through : The District Superintendent
of Police, Nandurbar,
Tq. & Dist. Nandurbar.
2. The Police Inspector,
Navapur Police Station, Nandurbar,
Tq. & Dist. Nandurbar.
3. Shaileshkumar s/o. Dwarkabhai Patel,
Age 38 years, Occu. Driver,
R/o. Tq. Bisnagar, Dist. Mhaisana,
Gujrath State
At present - Althan Battar, Suman
Amrut Society, Building Room No.
2002, Surat, Tal. & Dist. Surat.

....Respondents.

Mr. A.D. Sonar, Advocate for petitioner.

Mr. M.M. Nerlikar, APP for respondent Nos. 1 & 2.

Mr. Y.B. Bolkar, Advocate for respondent No. 3.

**CORAM : T.V. NALAWADE AND
M.G. SEWLIKAR, JJ.**

DATED : 25/02/2020.

ORAL JUDGMENT :

- 1) Rule. Rule made returnable forthwith. By consent heard
both the sides for final disposal.

2) The proceeding is filed for relief of quashing of F.I.R. No. 249/2018 registered with Navapur Police Station, Tahsil Navapur, District Nandurbar for offences punishable under sections 395, 120-B etc. of Indian Penal Code and section 3 r/w. 25 of Arms Act. Relief is also claimed to quash the chargesheet filed against the petitioner in that crime.

3) This Court has carefully gone through the record of investigation. One incident of road dacoity took place. There were six dacoits involved in the crime. They looted cash amount of more than Rs.2.4 crore. The persons who were involved in the dacoity were traced and many of them are identified by the persons, who were present in the car which was intercepted by the dacoits.

4) The record shows that during interrogation some of the persons who were involved in the offence of dacoity supplied information against the present petitioner that petitioner had given shelter to them prior to the date of incident in his house. Information was also supplied that present petitioner was also party to the conspiracy of dacoity.

5) The material collected by the police does not show that there is anything which can connect the present petitioner with the

aforesaid dacoity. Statements of the neighbours who could have seen the dacoits in the house of the present petitioners are not recorded and even panchanama of the house of the present petitioner is not prepared. When the amount was more than Rs.2 Crore, nothing is recovered from the place of the present petitioner. There is nothing like circumstance that at the relevant time, huge amount was deposited in his account. There is nothing like the communication between the person who had participated in the dacoity and the present petitioner. Thus, only on the basis of information allegedly supplied by some dacoits, the present petitioner is made accused and section 120-B of I.P.C. is used against him. Though the offence of conspiracy can be inferred on the basis of circumstances, some circumstances need to be there on the basis of which inference can be drawn by the Court. There is not a single circumstance which can be proved under any provision of the Evidence Act against the present petitioner. In view of these circumstances, this Court holds that asking the petitioner to face the trial will be unnecessary harassment to him and it will be abuse of process of law. In the result, the petition is allowed. Relief is granted in terms of prayer clause 'B' to the extent of petitioner.

Rule is made absolute in those terms.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]

ssc/