

ORDER BELOW EXH.648 & 650.

1. These are the applications filed by accused No. 9 and 8 under section 205 r/w. 217 of Cr.P.C. for grant of permanent exemption for their appearance on contention that accused No. 9 is practicing advocate at Mumbai and residing at Mumbai. He is facing different matters in different courts all over the India and therefore prayed to grant permanent exemption till further order.
2. Accused No. 8 submitted that he is permanent resident of Mumbai. He is practicing Chartered Accountant and facing various matters all over the India in different Courts and theretofore not possible to attend the Court on every date and therefore prayed to grant permanent exemption till further order.
3. Ld. Spl. P.P. for the state filed the say on contention that presence of the accused is necessary and therefore objected the application.
4. Perused the application and say filed by Ld. Spl. P.P. Heard Ld. advocate for the accused and Ld. Spl. P.P. for the State.
5. Present case is filed against the accused for the offence under section 409, 218, 406, 468, 120-B and 471 r/w. 34 of I.P.C. for cheating, forgery and misappropriation of the fund. In the present case already various witnesses are examined. Mainly case is based on documentary evidence and presence of accused is not necessary for their identification as there is no dispute about the identification of the accused.

6. According to me, if exemption is granted to the accused No.9 and 8 no prejudice will be caused to the prosecution. In such circumstances, according to me, after giving the undertaking that they would not dispute their identity as the particular accused in the case and that counsel on his behalf would be present in the present case and that they have no objection in taking evidence on their behalf application can be granted. Hence I proceed to pass the following order.

ORDER

1. Application is allowed.
2. Exemption of accused No. 9 and 8 are hereby granted under section 205 of Cr.P.C. till further order on executing undertaking that they would not dispute their identity as a particular accused in the case and that counsel on their behalf would be present in the Court and that they have no objection in taking evidence on his behalf.
3. Original copy be kept with Exh. 648 and its copy be kept with Exh. 650.

sd/-

Date :- 22/8/2014.

(U.T.Pol)  
Chief Judicial Magistrate,  
Osmanabad.