

:: ORDER BELOW EXH.99 IN SESSIONS CASE NO.44 OF 2019 ::

01. Heard learned advocate Mr.U.Dave for the accused and learned P.P. Mr. K.M.Makwana for the State. The learned advocate for the accused has submitted that the prosecution has produced document vide mark 24/34 and other documents referred to in para 3 of the application and from perusal of the same, it becomes clear that samples so send for examination and documents referred to in D.E.List comes within the purview of IT Act and is an Electronic Evidence. He has further submitted that I.O. has not provided Electronic Evidence to the accused and it is the duty of the I.O. to provide the same as a matter of fair trial. He has further submitted that the said Electronic Evidence goes to the root of the matter and necessary directions be issued to I.O. to produce the said Electronic Evidence on the record of the case on which reliance is placed by prosecution with copy of said evidence to the accused.

Per-contra, learned P.P. has submitted that prosecution has already placed material on record and if the Court deems it fit, necessary directions be issued in consonance with provisions of law.

02. Having heard the learned advocates for the respective parties and having perused the application and record of the case, it transpires that in D.E.List at Exh.24 reference has been made of photograph, video shooting, pen drive, CC TV recording by placing documents pertaining thereto as is mentioned in para-3 of the application. Thus, it transpires that there are Electronic Evidence, which seems to have not been produced on record. It also transpires that the prosecution too relies on such electronic evidence and when reference to such electronic evidence is made in D.E.List, it is in fitness of thing that such evidence is

required to be placed on the record of the case adhering to the principle of fair trial. Hence, the application deserves to be allowed in part and necessary directions are required to be issued to I.O. to produce the Electronic Evidence on record of the case with copy thereof to P.P. and learned advocate for the accused on which reliance is sought to be placed by the prosecution. Thus, following order.

:: ORDER ::

- [1] The application is allowed in part.
- [2] The I.O. is hereby directed to produce the Electronic Evidence on the record of the case with copy thereof to P.P. and learned advocate for the accused on which reliance is sought to be placed by the prosecution within the period of 30 Days from the date of receipt of copy of this order.
- [3] The copy of this order be provided to P.P. for onward communication to concerned I.O.

Date: 03.01.2024.
Place : Botad.

[H. R. Rawal]
Sessions Judge,
Botad