

MHKO010040822024



ORDER BELOW EXH.22 IN SESSIONS CASE NO.208 OF 2024
(State of Maharashtra V. Ganesh Vikram Kate)

1] Perused application and say filed by Advocate of accused Nos.1 to 3 at Exh.24, accused No.1 at Exh.23. Heard IO, APP and Advocate of accused Nos.1 to 4.

2] Application is filed for grant of permission to take photographs of accused Nos.1 to 4 in Kalamba Central Jail, Kolhapur. Accused Nos.1 to 4 are in judicial custody and offences p/u/s. 103(1), 3(5), 352, 351(4), 61(2) of the Bharatiya Nyaya Sanhita, 2023 (Hereinafter referred as BNS) are levelled against them.

3] According to IO and APP on 23/9/2025 first informant, brought and produced one pen drive having video recording of incident which was attached to computer. After starting computer video recording is visible and contents of that video recording are stated in application. First video is of 16 seconds, second video is of 14 seconds and accused are seen in that video recording. Therefore said pen drive is seized in presence of panch witnesses. It is material piece of electronic evidence and has to be sent for Regional Forensic Laboratory, Kolhapur. However for that reason photographs of accused Nos.1 to 4 from their front and backside are necessary. Hence this application is filed.

4] Advocate of accused Nos.1 to 4 resisted application by filing say that charge-sheet is filed on 28/8/2024 therefore application is devoid of merit. It is not clear from whose mobile video recording was done, what was its date, who copied it in pen drive and which software were used. They submitted that they are strongly resisting application of first informant and witness filed below Exh.5 u/s. 173 (8) of Cr.PC. (193 (9) of BNS). Yet that application is not decided. So prayer in this application cannot be granted. Investigating officer wrongly seized pen drive without ascertaining any facts. It is not clear where that mobile was in which video shooting was done, whether it was preserved or not. Accused are in custody for more than one year and there is no justifiable reason for producing said additional evidence after substantial period from charge-sheet.

5] Advocate of accused Nos. 1 to 3 submitted that there is no certificate u/s. 65(B) of Indian Evidence Act, about hash value and contents in pen drive. Moreover at the time of arrest of all accused their photographs were taken. So this application filed after 18 months from their arrest is not tenable. At present there are various applications and software to edit video and such type of evidence cannot be considered. So they prayed to reject application.

6] Admittedly, charge-sheet is filed on 28/8/2024. There are allegations that all accused were in collusion with each other and they committed murder of brother of first informant by means of weapons on 2/7/2024. It appears that on 23/9/2025, first informant produced one pen drive in her private capacity but as per contents in application there are two video recordings, certain acts and accused are visible in

those videos. Advocate of all accused strongly objected authenticity, custody of pen drive and legality of its production and seizure etc. They emphasized photographs of all accused are in charge-sheet. However at present investigating officer needs to verify this additional evidence for which photographs from front and backside of all accused are required. Scope of this application is limited. Considering legal provisions, for just decision of case and to bring on record all material facts, it is necessary to grant permission to investigating officer to take photographs of all accused by going in jail. Therefore the application deserves to be allowed with following order.

ORDER

- 1) Application is allowed.
- 2) Investigating officer is permitted to take photographs of accused Nos.1 to 4 by going in jail in Government Mobile provided to him by following rules and regulations of electronic evidence and compliance be reported to this Court.

Date – 20.11.2025.

(Smt. R.V. Adone)
Additional Sessions Judge,
Kolhapur.

Certificate

“ I affirm that the contents of the P.D.F. File order are same word for word as per original order.

Sd/-

[A.A.Patil]
(Stenographer G-1)