

Order below Exh. 79 in Sessions Case No. 21 of 2023
(State Vs. Taussif Ahmed Raffique Ahmed @ Raju & Ors.)

Vide present application preferred on behalf of accused no. 1 Taussif Ahmed Raffique Ahmed @ Raju, a copy of CCTV footage is sought by the accused. Ld. Advocate for the accused has contended that the copy of the said CCTV footage was not provided to either this or any other co-accused, but the said CCTV footage has been played in the Court, during the course of recording of evidence of PW6 Vinod Arunsingh Pardeshi, at trial. It is contended that the copy of said CCTV footage is required to be provided to the accused, so that he can defend his case properly. It is further submitted that the maximum aspects of cross examination of this witness would be in regards to the said CCTV footage played at trial. Accordingly, contended that the application may be allowed and the prosecution agency be directed to provide a copy thereof.

[2] The said application is resisted by the Ld. APP by scribing his objection, overleaf the application itself and vehemently submitting that the application now is not maintainable at this stage, for the reason that the said CCTV footage is played in the Court during the course of recording evidence of the Investigating Officer PW6 Vinod Arunsingh Pardeshi. Ld. APP contends that if at all said application would have been preferred before playing of the said CCTV footage in course of evidence, then accused could have achieved some

purpose by it. Ld. APP further submits that now seeking a copy of the said CCTV footage, after being played in the Court, during the course of recording evidence, the Ld. Advocate for the accused also seeing it, while being played, therefore, now it will be of no purpose for the accused to seek a copy thereof. It is contended that situation would have been different if at all accused would have sought a copy of it, before the same been played at trial.

[3] Accordingly, Ld. APP objecting the application, states it to be infructuous, requiring it to be dismissed. Further submitted that thus recording of evidence can be expedited. Accordingly, prayed to reject the application.

[4] Upon perusing the application, the say and hearing both the Ld. Advocates at length, it appears that the copy of CCTV footage sought for, was played during the course of recording evidence-in-chief of PW6 Vinod Pardeshi. Indeed at the said time, while the CCTV footage was played during the course of recording evidence of PW6 Vinod Pardeshi, undisputedly, the accused as well as their Ld. Advocates were present in the Court and had seen the said CCTV footage and its contents being played. However, perusal of the charge-sheet would reveal the said pen-drive containing the CCTV footage, had reference at sr. no. 14 in the list of articles seized or recovered during the course of investigation. It is further mentioned thereat in the charge-sheet about the said muddemal

been deposited with the muddemal clerk. It would thus, imply that the said pen-drive containing the CCTV footage was not deposited while the charge-sheet was filed. Consequently, it would mean that a copy of the said CCTV footage was not provided to any of the accused, thus, compliance under section 207 of the Cr.P.C., would appear to have not been done in proper spirit and copy of the CCTV footage was not provided to any of the accused.

[5] It goes without saying that mere presence of a defence Advocate or an accused, during the course of recording of evidence, without the defence side been provided with all such documents relied upon by the prosecution, will be of no avail to contend compliance of section 207 of the Cr.P.C. Further, just because a document would have been referred to a witness, or a CCTV footage been played at trial, during the course of recording evidence of a prosecution witness, by itself cannot make such application / request of the defence infructuous. It is so also because, the said witness is yet to face cross-examination and for that purpose, in order to afford an opportunity of a fair trial to the accused, a copy of such documents/footage relied upon by the prosecution, is required to be made available and given to the accused.

[6] It has been the contention that providing a copy of CCTV footage at this stage, after it being played in trial, it will not serve any purpose to the defence. In that respect, it is to be

considered that necessary compliance and an opportunity of fair trial is required to be afforded to the accused, and for that purpose, a copy of the CCTV footage is required to be made available to the accused. The extent of benefit the defence may derive out of it, is a concern for the said accused and even if in case, it may not be much advantageous to the defence, then also the copy of the CCTV footage is required to be provided to the defence.

[7] It was the statutory duty of the Investigating agency to ensure such compliance, however, upon failure to ensure it, it would not lie in the mouth of the Investigating agency to resist such a request. Hence, the following order.

ORDER

- (1) Application (Exh. 79) is allowed.
- (2) The Superintendent/ System Manager is directed to create a clone copy of the CCTV footage, in presence of the Ld. APP and Ld. Advocate Shri. T. A. Saleem, for the accused no.1 Taussif Ahmed Raffique Ahmed @ Raju.
- (3) The Superintendent/System Manager to make a proper report of it, obtain signatures of the Ld. APP as well as Ld. Adv. Ld. Advocate Shri. T. A. Saleem, for the accused no.1 and submit report on or before **20.09.2025**.

Date : 08.09.2025

(Y. H. Ameta)
Additional Sessions Judge,
Malegaon..