

SESSIONS CASE NO. 175 OF 2021

The State of Maharashtra

Versus

Ashpak Ahmad @ Chongya
Raees Ahmad and others

ORDER BELOW EXH. 66

Accused No.4 Naeem Ahmad Jamal Ahmad has filed application (Exh.63) for grant of bail under section 439 of the Code of Criminal Procedure. At the time of hearing of the said application, learned Advocate for accused No. 4 Naeem Ahmad submitted that during the investigation, the Investigating Officer collected 3 CCTV Footages and on the basis of the said Footages, the prosecution is claiming that this accused No.4 Neem Ahmad is involved in this crime. Therefore, learned Advocate for accused No.4 has filed this application (Exh.66) and thereby prayed that CCTV Footages copied on the Pen-Drive are also the documents produced along-with the charge-sheet and the same may be seen by the Court as like other documents while deciding the bail application.

[2] On the other hand, learned APP submitted that no doubt the prosecution is relying upon the said CCTV Footages. However, since there is no express provision in the Code of Criminal Procedure, at this stage of hearing of bail application, the same cannot be looked into. Therefore, the application may be rejected.

[3] It is an admitted fact that during the investigation the Investigating Officer collected certain CCTV Footages and on the basis of which the prosecution is claiming involvement of this accused No.4 Naeem Ahmad, in this crime. So also the said CCTV Footages have been produced by the prosecution along-with the charge-sheet.

[4] As per Section 3 of the Indian Evidence Act, "Document" means any matter expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, intended to be used, or which may be used, for the purpose of recording that matter.

[5] So also as per Section 3 of the Indian Evidence Act, "Evidence" means and includes -

(1) all the statements which the Court permits

or requires to be made before it by witnesses, in relation to matters of fact under inquiry;

such statements are called oral evidence;

(2) all documents including electronic record produced for the inspection of the Court,

such documents are called documentary evidence.

[6] From the above definitions of “Document” and “Evidence”, it can be said that CCTV Footages copied on the Pen-Drive produced along-with the charge-sheet, are electronic documents and the same can be looked into at the stage of hearing of bail application as like other documents produced along-with the charge-sheet.

[7] For the reasons stated above, I hold that the application (Exh.66) is liable to be allowed. I, therefore, pass the following order. :-

ORDER

Application (Exh.66) is allowed.

(S.B. Bahalkar)
Additional Sessions Judge,
Malegaon.

Date - 16.02.2023