

Ramchandra Tukaram Jadhav s/o .. Applicant
Tukaram Jadhav
Versus
The State of Maharashtra .. Respondent

...

CORAM: BHARATI DANGRE, J.
DATED : 10th OCTOBER, 2022

P.C:-

2 Heard learned counsel for the applicant and the
learned APP for the State.

During the course of hearing of the application on earlier dates, on relying upon the CCTV footage where according to the prosecution, the applicant was seen withdrawing the

amount from the ATM with the aid of the card belonging to the deceased.

Today, she makes a categorical statement that though the CCTV footage was collected, no panchnama has been prepared and the footage which was stored in the form of a CD by this time, is corrupted.

She also makes a categorical statement that no evidence regarding CCTV footage, is compiled in the charge-sheet.

3 In absence of the said footage when the material in the charge-sheet is looked into, the case of the prosecution hinges only upon the statement of the complainant who is the brother of the deceased.

He reported to the police station on 6/2/2019 that his sister who is a widow, was working in a Municipal Hospital as a sweeper and his sister had gone to Mankhurd as the entire family had left for their native place. On 13/11/2018, his sister had informed that she is going to attend the marriage and will return back on 15/11/2018, but when the family returned on 16/11/2018 and the sister was not to be found, enquiries were made about the marriage which she had disclosed that she was going to attend, but it was revealed to him that there was no such marriage scheduled. He gathered information that his sister was maintaining illicit relationship with Accused no.1 who was known

to the entire family and he used to visit their house in absence of the other family members.

4 The complainant relied upon the CCTV footage since it was revealed that some amount was withdrawn from her SBI account and from 15/11/2018 to 16/11/2018, total Rs.68,000/- was recovered. The complainant identified the applicant as one of the person on the basis of the CCTV footage.

5 The prosecution also relied upon the discovery panchnama recorded on 12/2/2019 after his arrest which led to a mangalsutra belonging to the deceased along with a cash amount of Rs.37,300/-.

6 With the aforesaid two circumstances, the prosecution ought to have demonstrated that the mangalsutra belong to the deceased, but unfortunately, there is no material to that effect, nor there is any evidence to establish that while the deceased went missing, she was wearing this mangalsutra. As far as cash of Rs.37,300/- is concerned, which was in the notes of denomination of Rs.500, 250, the prosecution has not taken pains to compare these notes with the number of the currency notes which were withdrawn from the particular ATM.

7 The sketchy material against the applicant do not deserve his further incarceration though he may take the consequences of the accusation levelled against him during the course of the trial.

Apart from this, co-accused Vijaysinha More is also released on bail by this Court on 31/1/2020, by recording that the prosecution has failed to point out any incriminating circumstance to suggest the complicity of the co-accused in the subject crime and the case of the prosecution rest on circumstantial evidence. Considering that the investigation was over, he was released on bail.

8 The above reasoning equally apply to the present applicant, particularly now, when there is no evidence in form of any CCTV footage to corroborate the involvement of the applicant as the applicant was relying only on the basis of statement of the complainant who relied upon the CCTV footage where the applicant was seeing withdrawing the amount from the account of his sister through ATM.

Observations made above are prima facie in nature and limited for the purpose of adjudication of the present application, and shall in no way, bind the Sessions Judge while he is trying the applicant for the charges levelled against him. Hence, the following order :

ORDER

- (a) The Applicant – Ramachandra Tukaram Jadhav
s/o Tukaram Jadhav in connection with
C.R.No.38/2019 registered with Mankhurd
Police Station shall be released on bail on

furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.

The applicant shall be released on cash bail of Rs.25,000/- in lieu of sureties for a period of six weeks. During the said period, the applicant shall arrange for the sureties.

- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.
- (c) The applicant shall mark his attendance on first Saturday of every trimester between 2.00 pm to 5.00 p.m, till framing of charge. The Applicant shall attend the trial on regular basis.
- (d) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, if there is any change.

The Application is allowed in the aforestated terms.

(SMT. BHARATI DANGRE, J.)