

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.468 OF 2015

Sayyed Sabir Sayyed Motebar Ali .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr.P.B.Pawar, Advocate for the petitioner.

Mr.P.P.More, APP for respondent/State.

CORAM : SMT.SADHANA S. JADHAV,J.

DATED : 09.04.2015

PER COURT :-

1. Heard learned counsel for the petitioner and learned APP for the respondent/State.

2. Rule. Rule made returnable forthwith with the consent of the parties.

3. The petitioner herein is an accused in Crime No.175 of 2014 registered at Azad Nagar Police Station, Dhule on 05.08.2014 for offences punishable under Sections 307, 143, 147, 148, 149, 323, 504, 506, 427 of the Indian Penal Code read with 3/25 of the Indian Arms

Act.

4. The petitioner herein had filed Criminal Writ Petition No.17 of 2015 seeking the relief of quashing of F.I.R. The said petition was allowed to be withdrawn on 2nd February, 2015. The petitioner herein had then filed an application seeking pre-arrest bail before this Court which was dismissed by the Coordinate Bench (Coram:- M.T. Joshi, J.) vide order dated 28.10.2014. Subsequent application was filed seeking pre-arrest bail under Section 438 of the Criminal Procedure Code, which was then rejected on 10.12.2014 on the ground that there is no change of circumstance. The learned Single Judge of this Court has observed that the plea of alibi is to be considered at the time of final hearing of the case.

5. The petitioner is reported to be absconding. On 18th February, 2015 the petitioner filed an application under Section 91 of the Criminal Procedure Code to issue summons for production of C.C.T.V. footage. The said application was rejected by the Additional Sessions Judge, Dhule vide order dated 9th March, 2015. Hence this Criminal Writ Petition.

6. It is apparently clear on the face of record that all the attempts of the petitioner to seek pre-

arrest bail on the ground of plea of alibi have been turned down by this Court. The Criminal Writ Petition seeking quashing of F.I.R. has also been withdrawn. The Investigating Officer had reported to the Court that the petitioner is absconding from the time of filing of F.I.R and therefore there was no effective investigation. Hence it is incomplete. It was specifically contended by the Investigating Agency that C.C.T.V. footage is a part of investigation and that there is nothing on record to presume that the petitioner was present in the police station at the relevant time. The learned Additional Sessions Judge, Dhule has rightly rejected the said application.

7. This Court is of the opinion that this is only an attempt to create obstruction in the investigation. The plea of alibi raised by the petitioner has been considered on at least three occasions by this Court and has been turned down. It is the defence of the accused which cannot be considered under Section 91 of the Criminal Procedure Code that it is a frail attempt to turn a spanner in the course of investigation hence the submissions advanced by the learned counsel for the petitioner do not deserve any consideration. The said issue can be considered in an appropriate application. The learned counsel for the petitioner submits that this

is a petition under Sections 227 and 482 of the Criminal Procedure Code, and therefore, in the interest of justice, the C.C.T.V. footage may be called for. It would not be appropriate for any Court to indulge or create hindrance in the investigation of crime. Hence, this Court is not inclined to interfere in the order dated 9th March, 2015, passed by the Additional Sessions Judge, Dhule.

8. This petition sans merit. The criminal writ petition stands rejected. Rule stands discharged.

9. Amendment be carried out forthwith.

[SMT. SADHANA S. JADHAV,J.]