

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

CRIMINAL APPLICATION NO. 5738 OF 2015

Vitthal @ Sonu s/o Prakash Kalwane **APPLICANT**

V E R S U S

The State of Maharashtra **RESPONDENT**

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Mr. R.G.Hange, Advocate for Applicant.

Mr. U.S.Mote, A.P.P. for Resp. - State.

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CORAM : INDIRA K. JAIN, J.

DATE : 20th NOVEMBER, 2015

ORAL ORDER :-

. Heard learned counsel for applicant and learned A.P.P. for respondent – State.

2. Perused impugned Order passed below Exh. 1 in Sessions Case No. 53/2015.

3. Applicant is involved in Crime No. 165/2014 registered at Beed [City] police station for the offences punishable u/ss 302,307,201 and 504 read with section 34 of the Indian Penal Code and u/s 4/27 of the Indian Arms Act.

4. On submission of charge sheet case was

committed to the court of Sessions. It was registered as Sessions Case No. 53/2015. Learned counsel for applicant submits that charge has been framed and evidence of prosecution witnesses would commence on 24/11/2015.

5. According to applicant, copy of DVD deposited as Muddemal was not supplied to the accused. Their request for copy of DVD was turned down by the learned Sessions Judge on the ground that copy of script of pictures in DVD was already furnished to the accused.

6. Learned counsel for applicant vehemently contended that without the inspection of DVR and DVD if accused would open their defence, it would cause serious prejudice to them since prosecution is relying upon seizure panchanama of DVD and pictures in DVD. Learned counsel submits that very purpose of provisions of section 207 of the Code of Criminal Procedure is frustrated and in the above background impugned order needs to be set aside.

7. Per contra learned A.P.P. submits that copy of DVD is not available and therefore it was not supplied to the accused. He submitted that copy of script of pictures in DVD is already given to the accused and it would serve the purpose.

8. Needless to state that object of section 207 of the Code is to enable the accused to obtain a clear picture

of the case which he has to meet and consequently to expedite the disposal of case. Compliance of section 207 of the Code is not a mere formality and it casts a duty on the Magistrate to supply copies of documents specified in the prosecution case.

9. Considering the object of provisions of section 207 (v) of the Code of Criminal Procedure, seriousness of accusations against the accused and evidence of prosecution witnesses is going to commence before the Sessions Court it is necessary to avoid denial of fair opportunity and prejudice to the accused to allow the inspection of original DVR and DVD before the commencement of evidence. Hence, the following order.

10. (i) Criminal Application No. 5738 of 2015 is allowed in the above terms.

(ii) Applicant/accused is permitted to inspect original DVR and DVD.

(iii) Trial court to allow the inspection of original DVR and DVD in accordance with the procedure before the commencement of evidence of prosecution witnesses.

(iv) Parties to act upon authenticated copy of this order.

[INDIRA K. JAIN]
JUDGE

