

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.421 OF 2022

VIJAY S/O RAM CHAVAN
VERSUS
THE STATE OF MAHARASHTRA

.....
Advocate for Applicant : Mr. S. B. Chavan
APP for Respondent-State : Ms. Vaishali Patil Jadhav
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CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 06-04-2022

ORDER :

1. The applicant is apprehending his arrest in connection with Crime No.30 of 2022, registered with Bhokar Police Station, Taluka Bhokar, District Nanded, for the offence punishable under Section 392 r.w.34 of the Indian Penal Code.
2. Heard learned Advocate Mr. S. B. Chavan for applicant and learned APP Ms. Vaishali Patil Jadhav for respondent-State.
3. Learned Advocate for the applicant has submitted that the applicant has been falsely involved and it is stated that the applicant had snatched the gold chain of the informant. Only on the basis of CCTV Footage collected from Adiraj Beer Bar, Palas, it is stated that he had identified the applicant. As regards the CCTV Footage is

concerned, the admissibility will have to be considered and there is no evidence that is collected in the form of certificate under Section 65-B, 65-A and 64 of the Indian Evidence Act. He relied on the decision in "*X*" Vs. *State of Maharashtra and Another*, reported in 2020 (4) *Mh.L.J.* 171, wherein it has been held by this Court that :-

"When the production of CCTV footage without certificate was tried to be adduced and the accused had failed to disclose the source from where he secured the CCTV Footage, and there was no attempt to call the owner of the said shop where CCTV Cameras were installed, such evidence cannot be allowed to be adduced."

4. Learned APP strongly opposes the application. Learned APP submits that the matter is coming for the first time and she is not armed with all the papers, however, taking into consideration the contents of the FIR, specific role has been attributed to the applicant.

5. At the outset, it is to be noted that the present case is at a very primary stage of investigation, therefore, we cannot go further and consider absence of Section 65-B of Evidence Act certificate. That would be collected by the Investigating Officer, and therefore, the decision in "*X*" Vs. *State of Maharashtra and Another (Supra)*

is not applicable.

6. The informant has lodged the report on 23-01-2022 in respect of an incident that had taken place at about 04.30 p.m. on 22-01-2022. She was working in her field and at that time two unknown persons came. She has given the description of those two persons and it is stated that the person who had put yellow colour shirt and tied black colour handkerchief/cloth on his head, having beard aged between 25 to 30 years came near her and snatched her two tolas of gold chain, and the another person who was waiting on the bandh on motorcycle fled away. She had raised voice, and thereafter, two persons came near her, one was Ankush Ganesh Rathod and another was Laxman Sayanna Tokalwad. She told about the incident to them, her son was called. She also told that those two persons were under the influence of liquor, and therefore, they all went to the nearby beer bar i.e. Adiraj beer Bar and saw the CCTV Footage and thereupon she has identified the two persons and came to know about the names. Present applicant was the person who was wearing blue colour shirt and was near the bandh. Now evidence in the nature of CCTV Footage is available and that has been collected by the Investigating officer. The say filed by the police before the

Additional Sessions Judge, copy of the same has been produced, in which all these things have been mentioned. Statements of eight witnesses have been recorded who have stated to be the eye-witnesses as well as other witnesses. When there appears to be prima facie evidence against the accused/applicant and the gold chain worth Rs.70,000/- is yet to be recovered, then this is not a fit case where the applicant should be released on anticipatory bail. Hence, the application stands rejected at the threshold.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.