

The State of Maharashtra ... Respondent

Mr. Pandurang H. Gaikwad-Patil, APP, for the Respondent/State.

DATE : 28TH JUNE, 2024.

3. Shri Deshmukh, the learned counsel for the applicant submits that except recovery under Section 27, there is no other evidence to show the involvement of the applicant in the alleged offence. It is submitted that there is no CCTV footage available to

implicate the applicant in the alleged offence.

4. It is pointed out that the only allegation against the applicant was that he was standing outside the house at a distance to keep a watch and except the same no role is attributed to the applicant. It is submitted that there is nothing to show that he actively participated in the alleged offence. It is further submitted that till date no Test Identification Parade is conducted.

5. He further points out that the applicant is in jail from last about 10 months and as the charge-sheet has been filed, further custody of the applicant is not required.

6. On the other hand, Shri Gaikwad, the learned APP strongly opposed the application and points out that the applicant is a labourer and he was absent from his job on the date of incident and in this regard, the evidence has been collected by the IO. Further from the statement of goldsmith and recovery of cash under Section 27 of Evidence Act, at the instance of applicant, the *prima facie* involvement of the applicant is shown, in the alleged offence. Though, the learned APP has stated that there is a CCTV footage, the same has been disputed by Shri Deshmukh, the learned counsel for the applicant. The learned APP accordingly, prays for rejection of the present application.

7. Having considered the submissions made by both the parties and the material collected by the IO during the investigation, it is evident that on the date of incident, the applicant was absent from his job. He is a labourer and in this background if the circumstantial

evidence namely recovery of Rs.7,46,600,/ is considered, it supports the case of the prosecution.

8. The total amount involved in the alleged robbery is Rs. 1,07,24,000/-.

9. As far as, the submissions made by the learned counsel for the applicant that the amount recovered does not tally with the stolen cash or ornaments is concerned, it is the matter of evidence and at this stage, the same cannot be appreciated.

10. Thus, considering the material collected by the IO including statement of goldsmith and other evidence, I am of the opinion that *prima facie* there is a sufficient material to show the involvement of the applicant in the alleged offence.

11. In the circumstances, the application is rejected.

(ANIL S. KILOR, J)