



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

CRIMINAL APPLICATION (APL) NO. 1298 OF 2024

APPLICANT : Nikhil @ Golu S/o. Lalsingh Maliye,
Aged about 35 Years, Occ: Business,
R/o. Prabhu Shraddha Apartment,
Survey Nagar, Trimurti Nagar, Nagpur
– 440022.

//VERSUS//

NON-APPLICANT : The State of Maharashtra, through
Police Station Officer,
Ranapratapnagar Police Station, Dist.
Nagpur.

Mr. Adwait S. Manohar, Advocate for the Applicant.
Mr. A.R. Chutke, APP for the Non-applicant.

CORAM : G. A. SANAP, J.
DATED : 9th DECEMBER, 2024.

ORAL JUDGMENT

. Heard finally by the consent of the learned advocates
for the parties at the admission stage.

02] In this application, challenge is to the order dated
31st October, 2023, passed by the learned Additional Sessions
Judge-11, Nagpur, whereby the learned Judge rejected the

application made by accused No.3 - Nikhil @ Golu S/o. Lalsingh Maliye for discharge, and the order framing the charge dated 2nd April, 2024.

03] It is the contention of the accused that the prosecution has relied upon the CCTV footage of the incident. The incident has been captured in the CCTV footage. It is submitted that the accused was not involved in the incident, which has been captured in the CCTV footage. It is submitted that the copy of the CCTV footage was not provided to the accused. Similarly, the learned Judge, without going through the CCTV footage, has decided the application. It is submitted that, therefore, not only the order, rejecting the application for discharge, but also the order, framing the charge, has been vitiated.

04] When this matter was argued before me on the last date, it was noticed that the CCTV footage was sent to the R.F.S.L., Nagpur, for analysis. The direction was given to the R.F.S.L., Nagpur, to expedite the analysis of the CCTV footage. I am informed by the learned APP that now, the CCTV footage has been analysed. It is submitted that the analysis report dated 23rd October, 2024, has been provided to the accused. It is evident that

when the application for discharge was heard, the CCTV footage was not provided to the accused. The accused is relying upon the CCTV footage to seek his discharge from the case.

05] In view of the factual position, it is apparent that the learned Judge, without going through the CCTV footage, has decided the application for discharge. Perusal of the order would show that the submission seeking discharge was premised on the role, which could be seen from the CCTV footage. It is submitted that perusal of the CCTV footage would reveal that the accused has not played any part in the main incident. In my view, considering this factual position and the fact that now the report of the analysis of the CCTV footage is received and the pen drive of the CCTV footage has been returned to the Court, it would be imperative to provide the copy of the CCTV footage as well as the copy of the report of the analysis of the CCTV footage to the accused. The accused deserves an opportunity of reasonable hearing before deciding his application for discharge.

06] In view of this, the order dated 2nd April, 2024, framing the charge, and the order dated 31st October, 2023, rejecting the application made by the accused for his discharge, deserve to be set aside.

07] Accordingly, the order dated 2nd April, 2024, framing the charge is set aside. Similarly, the order dated 31st October, 2023, rejecting his application for discharge, is also set aside.

08] The discharge application is restored to the file. The discharge application be decided afresh. The copy of the CCTV footage be provided to the accused.

09] The application stands disposed of in the above terms.

(G. A. SANAP, J.)

Vijay