



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

11 CRIMINAL WRIT PETITION NO. 266 OF 2025

SAHADEV PRABHU HARALE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. Narsing B. Jadhav Advocate for Petitioner.

Mr. V.K. Kotecha, A.P.P. for Respondents.

...

**CORAM: SMT. VIBHA KANKANWADI AND
SANJAY A. DESHMUKH, JJ.**

DATE : 11th MARCH, 2025

ORDER :

1. Present Petition has been filed for following reliefs:

"B. Record and proceeding may kindly be call from respondents No.5 & 6 in respect of Crime No.35/2025.

C. By passing appropriate orders, writ or direction in like nature of certiorari, respondent nos. 5 & 6 may kindly be directed to collect CCTV Footage, DVR, at village Ghatangri in front of House Sugriv Babu Thorat and Shop Owner Bhau Shahu Shinde dated 02.02.2025 from time 10.00 a.m. to 01.00 p.m.

D. By passing appropriate orders, writ or direction in like nature of certiorari, the respondent nos. 5 & 6 may kindly be directed to collect CCTV Footage, DVR, tower location, of petitioner's mobile No. 9422467605, CDR, SDR, Medical case paper of civil hospital Latur dated 02.02.2025 in respect of medical case paper 030388 and CCTV footage of Civil Hospital Latur particularly OPD, Casualty, In door patient ward. Petitioner travel from his flat Majge nagar to Civil Hospital Latur Via Mark Yard,

Bankat Lahoti English School. Said CCTV footage may kindly be collected from SP Latur.

E. By passing appropriate orders, writ or direction in like nature of certiorari, the respondent nos. 5 & 6 may kindly be directed to collect CCTV footage from owner of Magic Touch Men's Parlour and their Phone pay transaction made between petitioner and owner of parlour & Radhe Radhe Fruit Stall, Majge Nagar Latur and their statement may kindly be recorded. Where specific date and time is recorded.

F. By passing appropriate orders, writ or directions in like nature of certiorari, the respondents may kindly be directed to take decision and act upon as per prayer requested by the petitioner vide representation dated 06.02.2025, 13.02.2025 & 21.02.2025 submitted by the petitioner.

G. By passing appropriate orders, writ or direction in like nature of certiorari, the respondent No.4 may kindly be directed to transfer investigation of Crime No.35/2025 towards the other agency for fair investigation."

2. Heard learned Advocate for the petitioner and learned APP for the respondents.

3. Learned Advocate for the petitioner submits that the First Information Report (for short "the FIR") came to be lodged against the petitioner showing him to be accused No.4 at the behest of one Kalpana Dilip Harale, vide Crime No.35 of 2025 with Dharashiv Gramin Police Station, District-Dharashiv for the offence punishable under Sections 109, 118(1), 115(2), 352, 189(2), 191(2), 191(3), 190 of the Bharatiya Nyaya Sanhita. As per the said FIR, the incident had taken place at 12.00 noon on 2nd February 2025, however the petitioner was admitted in civil

hospital, Latur between 12.00 noon to 12.20 p.m. on 2nd February 2025. As per the said FIR, the incident had taken place at village Ghatangri, Taluka and District-Dharashiv. Petitioner was not at all present when the alleged offence had taken place. The petitioner is Advocate by profession. He had given complaint application to the investigating officer on 6th February 2025 giving details as to where his location can be found and also to collect the CCTV footage at different places. However, as the bail application of the petitioner has been opposed and then the supplementary statement of the informant has been recorded, it is certain that no such evidence has been collected by the investigating officer in pursuant to the application filed by the petitioner and therefore, the petition has been filed.

4. The simple question arising in the matter is that the petitioner is claiming plea of alibi. The plea of alibi will have to be proved by him at the time of trial. No doubt the investigation should be fair, however, this Court cannot be a part in collecting the evidence. Another fact is that the plea of alibi in the present case can be brought into record on the basis of admission card of the hospital and it cannot be only on the basis of the CCTV footage. Further it appears that the CCTV footage which the petitioner wants are of the CCTVs installed by the private

persons and therefore, even the petitioner can make a request to those persons. Further, the petitioner has also stated that he had made some payments through PhonePe. That can also be proved by him through his transaction.

5. Under such circumstances, it is absolutely not fit case where we should exercise our constitutional powers. The Petition stands rejected at the threshold.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

asb/MAR25