

04.07.2020

This is an application seeking compliance of the order dated 29.06.2020 to preserve CCTV footage of DIU with perusal for and on behalf of applicant/accused Harish Jarwal.

Present : Ld. APP Sh. Lalit Pingolia in person.

Advocate Sh. Ravi Dral present for accused/applicant Harish Jarwal.

IO Kamal Kishore in person.

Due to spreading of Corona Virus (COVID-19), special measures taken by the Government to prevent it by ordering a nationwide lockdown, the hearing of the urgent matter has been conducted through Video Conference using CISCO WEBEX app after taking consent of both the parties, in terms of directions issued by the Ld. District and Sessions Judge, Rouse Avenue District Courts.

Ld. Counsel for the accused/applicant submitted that IO of the present case has not perused the CCTV footage and merely filed the reply that the previous order dated 29.06.2020 has been complied with and the CCTV footage has been preserved accordingly. It is further submitted by the Ld. Counsel that IO is concealing the fact of presence of the applicant/accused Harish Jarwal at DIU office, Malviya Nagar and is misleading the court in this respect. It is prayed that directions may be given to the IO to file the detailed reply of the CCTV footage after perusal and with respect to the presence of the applicant.

On the other hand, IO has filed reply to the application stating that the CCTV footage has been duly perused by him and the order of the court dated 29.06.2020 has been complied with in letter and spirit. IO further submitted that the anticipatory bail application of the applicant/accused has been dismissed by the Hon'ble High Court of the Delhi recently and he has been avoiding his arrest and not joining the investigation till date. It is further submitted by the IO that the moving of one application after the another on behalf of the applicant/accused Harish Jarwal is an attempt to delay the investigation and does not serve any purpose at this stage.

Ld. APP on behalf of the State also supported the submission made by the IO and submitted that the application moved by the applicant/accused deserves to be dismissed out rightly.

Submissions heard. Record perused.

At the outset it is pertinent to note that the Ld. Counsel for the accused has not disputed or denied the preservation of the CCTV footage by the IO in compliance of the order passed by the court. Only the main contention of the Ld. Counsel is that the IO has not perused the CCTV footage and identification of the applicant/accused Harish Jarwal has not been verified from the co-accused Anil Kumar which he should have done. These submissions have been out rightly rejected by the IO submitting that he has perused the CCTV footage and the applicant/accused has not been found present in the said CCTV footage and the same submissions have been made before the Hon'ble High Court of Delhi.

Ld. Counsel for the applicant/accused further submitted that the accused/applicant be allowed to peruse the CCTV footage preserved by the IO. This contention of the applicant deserves to be rejected and he cannot be allowed to peruse the CCTV footage as this contention has already been rejected by the Ld. CMM vide order dated 11.06.2020 while denying the supply of the copy of the CCTV footage to the applicant/accused at this stage.

It is pertinent to note that the CCTV footage is otherwise not going to create any defence in favour of the accused/applicant vis-à-vis the commission of the offence. It is at the most can be incorrect submission made by the IO as noted by the Ld. CMM in his order dated 09.06.2020. If still Ld. Counsel for the accused/applicant has any grievance, a complaint against the IO can always be filed before the superior police officials or before the concerned court having territorial jurisdiction over this issue. As far as this court is concerned, no further directions are required to be passed in this application, application accordingly stands disposed off.

Copy of the order be supplied to the Ld. Counsel for the applicant/accused and be also uploaded on the website.

[Vishal Pahuja]
ACMM-01/RADC/ND/04.07.2020