

IN THE SPECIAL COURT FOR CBI AT GREATER BOMBAY**ORDER BELOW EXH.328
IN
CBI SPECIAL CASE NO.83 OF 2003****Nandkishore S. Trivedi****...Applicant/ A-5****V/s.****Central Bureau of Investigation
(B.S.& F.C. Mumbai)****...Respondent****CORAM: DR. J.P. DAREKAR
SPECIAL JUDGE (CBI)
(COURT ROOM NO.51)****DATED: 11th July, 2025.****Appearance:-****Ld. Adv. Ms. Charulata S. Khanna, for Applicant/accused no.5.****Ld. PP Mr. Vikram Singh for CBI.****ORDER**

1. This is an application filed by accused no.5 for issuing direction to CBI to return the Original Agreement for Sale of Flat No.3A, Pushpam to applicant, seized by the CBI during investigation.

2. It is submitted that the applicant/accused No.5 is residing alongwith his family at Flat No.3A, Pushpam CHS, 3rd floor, 6, Khandubhai Desai Road, Vile Parle (West), Mumbai since last 25 years. It is further submitted that CBI, BS & FC Mumbai registered a case vide R.C.No.4/E/2002 on 10/05/2002, against the applicant and other accused on the basis of a complaint lodged by the Director General of Shipping, Mumbai, for misappropriation of the funds of Seamen's Provident Fund. The applicant is charged for the offences punishable under Sections 120(B), 409, 420, 465, 467, 468, 477-A of Indian Penal Code, 1860 read with Section 13(2) read with Section 13(1)(c) and (d)

of Prevention of Corruption Act, 1988. During investigation, Agreement for sale of the above-mentioned flat has been seized from Dr. Bhalchandra L. Dave vide production memo dated 19/06/2003. He further submitted that the said agreement for sale is not the part and parcel of charge-sheet as well as the documents filed alongwith the charge-sheet. The charge-sheet came to be filed on 10/11/2003. The applicant had sent request letter on 04/02/2025 addressing CBI BS and FC to return the agreement for sale, as he needs the same for redevelopment purpose in order to ascertain their rights over the property. The Superintendent of Police vide its letter dated 11/02/2025 informed that *'the document requested by applicant could be returned on the basis of the orders issued by the Hon'ble Court'*. The said agreement is in possession of CBI and no purpose will be served by keeping the same with them. CBI is not relying on the said document. He undertakes to abide with the conditions laid down by the Court and prayed to return the Original Agreement for sale of above mentioned flat to the applicant.

3. Prosecution has filed its reply at Exh.328-A. The Ld. PP for CBI has submitted that CBI has no objection to release/return the agreement for sale to Dr. Bhalchandra L. Dave, or to the applicant on obtaining No Objection Certificate from Dr. Bhalchandra L. Dave for returning the said document to the present applicant/accused No.5 and submitted to pass appropriate order.

4. The Ld. Advocate for applicant has filed rejoinder on reply of prosecution vide Exh.328-B and submitted that CBI had collected the Agreement for sale from Dr. Bhalchandra L. Dave under production memo dated 19/06/2003. He further submits that during the relevant

period, the applicant was in police/judicial custody, as there was no male member in the family, therefore, applicant's wife handed over the said document to her father to be submitted to the Investigating officer. Prosecution in their reply at Paragraph No.5 has specifically mentioned that they have no objection to return the agreement for sale, on obtaining the No Objection Certificate from Dr. Bhalchandra L. Dave, from whom it is seized by prosecution. Applicant has annexed copy of death certificate of Late Dr. Bhalchandra L. Dave at Exh.A, who expired on 18/09/2023. Hence, obtaining a No objection certificate from Late Dr. Bhalchandra L. Dave, does not arise. He further submits that the Agreement for sale stands in the name of applicant and his mother and not in the name of Dr. Bhalchandra L. Dave. Applicant is the son in law of Late Dr. Bhalchandra L. Dave. Hence, prayed to hand over the Agreement for sale to the applicant by waiving the NOC from late Dr. Bhalchandra Dave.

5. Heard both sides. Perused the documents. It is seen that applicant is charged for the offences punishable under Sections 120(B), 409, 420, 465, 467, 468, 477-A of Indian Penal Code, 1860 read with Section 13(2) read with Section 13(1)(c) and (d) of Prevention of Corruption Act, 1988. Since many years, applicant is residing at Flat No.3A, Pushpam CHS, 3rd floor, 6, Khandubhai Desai Road, Vile Parle (West), Mumbai, along with his family. The agreement for sale of said flat stands in the name of applicant and his mother. During investigation, the applicant is in police/judicial custody. As there was no male member in the family, therefore, the applicant's wife had handed over the said document to her father - Dr. Bhalchandra Dave, from whom the said document has been seized by prosecution. Now, Dr. Bhalchandra Dave is no more and this fact has been verified by the prosecution. therefore as

per the contention of the prosecution to obtain NOC from deceased, does not arise. Applicant requires the said agreement for sale for redevelopment purpose. Thus, considering totality of the circumstances, the application deserves to be allowed with conditions. Hence, the following order :

ORDER

1. Application (Exh.328) in CBI Spl. Case No.83/2003 is allowed.
2. Prosecution CBI is directed to return the Original Agreement for Sale to the applicant/accused No.5 - Nandkishore S. Trivedi, seized during investigation, as per rule and to acknowledge the same on its receipt.
3. Prosecution CBI is directed to preserve the colour copy of Agreement for sale, for record purpose and to submit the report.
4. Compliance be made accordingly.

(Application stands disposed of).

Date:- 11/07/2025.



(Dr. J. P. Darekar)
Special Judge(CBI)
Gr. Bombay (CR 51)

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”

14/07/2025. 11.55 a.m.
UPLOAD DATE AND TIME

(Smt. S.U. Manjrekar)
Stenographer(Grade I)

Name of the Judge (With Court room no.)	H.H.J. Dr.J. P Darekar (C.R. No. 51)
Date of Pronouncement of JUDGMENT/ ORDER	11/07/2025
JUDGMENT/ORDER signed by PO. on	14/07/2025
JUDGMENT/ORDER uploaded on	14/07/2025