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**IN THE COURT OF ADD. CHIEF JUDICIAL MAGISTRATE
47TH COURT AT, ESPLANADE, MUMBAI**

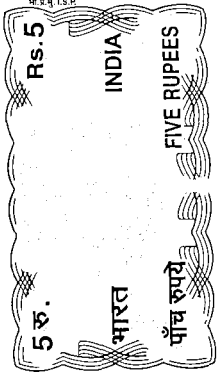
MISC. APPLICATION NO. OF 2026

IN

CASE NO. 256/ PW/2023

IN

C.R. No. 102 of 2002



THE STATE OF MAHARASHTRA

}... RESPONDENT

Versus

Sanjay Hariram Agarwal

} ...APPLICANT/

ACCUSED

**APPLICATION OBJECTING BY AND ON
BEHALF OF THE ACCUSED TO THE
EXHIBITION AND ADMISSIBILITY OF
THE DOCUMENTS PRODUCTION BY
THE INVESTIGATING OFFICER:-**

MAY IT PLEASE YOUR WORSHIP

It is most respectfully submitted on behalf of the above named Accused as under

- 1) That the charge sheet in the present case was filed by the investigating officer in the year 2002, for the offence under section of IPC 406, 408, 420, 465, 467, 468, 491, 34
- 2) That the Accused was supplied with the copies of the charge sheet, which include the statement of witness

and documents which are the on the record of this Hon'ble Court.

- 3) That on the basis of said charge sheet, statement of witness and documents, this Hon'ble Court was pleased to frame charges against he accused.
- 4) That from October 2023 to November 2025, the evidence of as many as 18 prosecution witnesses, including the complainant (PW-1), has been recorded by this Hon'ble Court. The cross-examination of all these witnesses was conducted by the learned counsel for the accused trictly on the basis of the documents and materials referred to and annexed with the charge-sheet supplied to the accused/applicant, ensuring a fair and effective opportunity to defend.
- 5) That the Investigating Officer (IO) (PW-19) was summoned as a witness by the prosecution and his examination-in-chief has been recorded. During the said evidence, vide letter dated 19.11.2025, the IO has sought to produce more than 36 additional documents/materials (hereinafter referred to as "**the Additional Documents**") which were allegedly in his custody and lying with the Muddamal Department.
- 6) That the documents now sought to be produced by the prosecution are stated to be seized by the Investigating Officer during the course of the investigation under various seizure panchanamas.

- 7) That it is highly pertinent to note that while the said seizure panchanamas form part of the charge-sheet papers originally supplied to the Accused, the actual documents seized thereunder were never produced along with the charge-sheet. They were withheld by the IO with him for the ground best know to him.
- 8) That these seized documents were neither included in the charge sheet nor given to the Accused. It is only recently, through a letter dated 19/11/2025, that the Investigating Officer trying to suggest that these documents as Muddemal and proposed to submit them to this Hon'ble Court.
- 9) That shockingly, none of the aforesaid Additional Documents were ever referred to, mentioned, described, or listed in the original charge-sheet, the list of documents under Section 173 of the erstwhile Code of Criminal Procedure, 1973, or any supplementary report filed by the prosecution at any stage from 2002 till date. These Additional Documents are being sought to be tendered for the first time in November 2025, i.e., over 23 years after the filing of the charge-sheet.
- 10) That the documents withheld from the Accused are not mere formal papers but include several highly important and substantive documents, such as **contract notes, bills, adjustment letters, correspondence, minutes of meetings, and other allied documents.** All of these are material

documents having a direct and profound bearing on the facts in issue.

- 11) That the prosecution had ample opportunity and sufficient time from 2002 to 2022 (and even thereafter till October 2023) to produce, annex, or refer to the Additional Documents in the charge-sheet or any supplementary report. The deliberate suppression/non-production of these documents for over two decades amounts to gross negligence and prejudice to the accused/applicant, as enshrined under Article 21 of the Constitution of India guaranteeing a fair trial.
- 12) That the cross-examination of all 18 previous witnesses (including the complainant) was concluded based solely on the documents supplied with the charge-sheet. Introducing the Additional Documents at this belated stage, after the prosecution's evidence is nearly complete, would render the entire cross-examination of these witnesses infructuous and ineffective, as the defence was deprived of the opportunity to confront them with the said materials under Section 251 BNSS (corresponding to Section 138 Evidence Act). This violates the principles of natural justice, *audi alteram partem*, and the accused's right to a fair trial, as held by the Hon'ble Supreme Court in *Zahira Habibullah Sheikh v. State of Gujarat* (2004) 4 SCC 158 and *Himachal Pradesh Administration v. Om Prakash* (1972) 1 SCC 249.

- 13) That permitting the exhibition/tendering of the Additional Documents without prior supply of copies to the accused/applicant contravenes Section 230(2) BNSS and Section 91 of the Bharatiya Sakshya Adhiniyam, 2023 (BSA), (corresponding to Section 3 Evidence Act), which mandate full disclosure and opportunity to the defence. The non-supply of copies till date further exacerbates the prejudice, as the accused/applicant cannot effectively cross-examine the IO or rebut the prosecution's case.
- 14) Under the circumstances, Accused most respectful submits that the documents produce and submitted by the investigating officer during his examination-in-chief may be De-exhibited and same may not be admitted into evidence.

IT IS THEREFORE PRAYED

- a) That the documents produce by the investigating officer under the letter dated 19.11.2025 during his examination-in-chief, and exhibited, may be De-exhibited and same may not be admitted into evidence.
- b) Any other relief as may be deemed fit and proper

AND FOR THE ACT OF THIS KINDNESS APPLICANT SHALL
PRAY FOR EVER

Date

Mumbai

Adv. For Applicant

Applicant/accused