

2C 10-

IN THE COURT OF ADD. CHIEF JUDICIAL MAGISTRATE

47TH COURT AT, ESPLANADE, MUMBAI

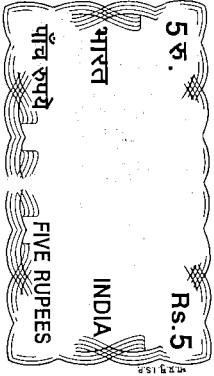
MISC. APPLICATION NO. OF 2026

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 UNDER SECTIONS
265 OF BNSS TO DEFER THE
CROSS-EXAMINATION OF 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 406, 408, 420, 465, 467, 468, 471, 34 of IPC
- 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.
- 5) The cross-examination of all these witnesses was conducted by the learned counsel for the accused strictly on the basis of the documents and materials referred to and annexed with the charge-sheet supplied to the accused/applicant, in the year 2002.
- 6) 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.
- 7) 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.

- 8) 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.
- 9) 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.
- 10) That the examination-in-chief of the Investigating Officer is currently underway/concluded, and the matter is fixed for his cross-examination.
- 11) That the IO has abruptly introduced over 1500 pages of material documents (including contract notes, bills, minutes of meetings, etc.) which were seized during investigation but withheld from the charge sheet as Muddemal.
- 12) That the Accused has filed separate applications seeking: (i) supply of copies of these documents and time to peruse them, and (ii) recalling of the 18 previously examined witnesses to confront them with this new evidence.
- 13) That the cross-examination of the Investigating Officer will heavily depend on the contents of these newly

introduced documents AND the answers elicited from the 18 recalled witnesses when they are confronted with this material.

- 14) That compelling the defense to cross-examine the Investigating Officer at this juncture—without copies, without preparation time, and without completing the cross-examination of the recalled witnesses—would be a futile exercise and deeply prejudicial to the Accused.
- 15) Under the circumstances, Accused most respectful prays as under.

IT IS THEREFORE PRAYED

- a) Defer the cross-examination of the Investigating Officer under Sections of the BNSS until:
- b) The copies of the new documents are supplied and perused by the defense;
- c) The 18 previously examined witnesses are recalled and their cross-examination is concluded;
- d) Pass any other order(s) as deemed fit in the interest of justice.

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

Date

Mumbai

Adv. For Applicant

Applicant/accused